

## **DEPARTMENT OF THE INTERIOR AND RE- LATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2004**

**THURSDAY, APRIL 10, 2003**

U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

The subcommittee met at 10 a.m., in room SD-124, Dirksen Senate Office Building, Hon. Conrad Burns (chairman) presiding.  
Present: Senators Burns, Stevens, and Dorgan.

### **DEPARTMENT OF THE INTERIOR**

#### **OFFICE OF THE SECRETARY**

#### **STATEMENT OF HON. GALE A. NORTON, SECRETARY OF THE INTERIOR**

##### **ACCOMPANIED BY:**

**P. LYNN SCARLETT, ASSISTANT SECRETARY, POLICY, MANAGEMENT AND BUDGET**  
**JOHN D. TREZISE, DIRECTOR OF BUDGET**

##### **OPENING STATEMENT OF SENATOR CONRAD BURNS**

Senator BURNS. We will call the committee to order.

Depending on if you are running on daylight savings time, or just standard time, which one of the clocks do you want to go by?

We like to serve everybody with 10 o'clock according to one and another one.

Madame Secretary, thank you for coming today as we look at the budget for the Interior Department and the appropriations for 2004. While I suspect we will get to a number of topics today, there is one aspect of the Department's budget request that really jumps off the page. One does not have to be an accountant to see that we have real problems. I am talking, of course, about the Indian trust reform.

It looks like right now, compared to the 2003 enacted level, the Department's request for programs under this subcommittee's jurisdiction represents an increase of about \$370 million. Of that total increase, at least \$180 million is for trust reform activities of the Office of Special Trustee in the Bureau of Indian Affairs. The bulk of that increase is to implement the Department's plan for historical accounting. This is a remarkable concentration of resources for a single task. I think you would have to agree with that.

Madame Secretary, we applaud the commitment you have made to the trust reform; both in dollars, and in terms of your personal attention. I know it has occupied far more time than you would have imagined, or you would care to even talk about. But the litigation has taken its toll on the morale and funds of the Department.

I think all of us here are struggling with the fact that increasing resources being devoted to trust reform are resources that might otherwise be spent in improving Indian schools, maintaining our national parks and public lands, or working with landowners to eliminate noxious weeds, and conserve the critical wildlife habitat. We know that it will take money to fix the trust problem.

Madame Secretary, I think you would agree that over the years this committee has been very responsive to the Department's budget request for trust reform. But this year's request, particularly in respect to the historical accounting, really forces this committee to ask some tough questions.

On one hand, I do not think any of us want to simply give up on historical accounting. I hate to condemn the Federal Government to paying billions of dollars of damages that may or may not have occurred. On the other hand, can we justify spending hundreds of millions of dollars to perform a historical accounting that will, undoubtedly, be disputed in Indian country?

What will such an accounting ultimately tell us? And what needs in Indian country will go unfulfilled while we go through this very expensive process? These are really difficult issues. And, Madame Secretary, I suspect the line of questioning this morning will go down that trail.

We also have a problem that I want to raise with you as far as increased funding in Indian schools, and the community colleges that are located around our many reservations. We increased the monies going into that particular program, and to higher education in Indian country. As it turns out, by some quirk of the pen, I get a decrease in my monies going for students in Montana. Rather than being an accross the board increase for all Indian schools, all of the funding gets distributed elsewhere.

#### PREPARED STATEMENT

We will look into this. But I will tell you that you can look forward to seeing this Senator in that office. I am going to find out how they do those figures, because I will not allow this to happen. I do not fight for my State, and I do not fight for funds for higher education in Indian country, to see it become concentrated in one place under some quirk of a rule of titles. We are going to look into that and be very critical of it. Again, I thank you for coming this morning.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR CONRAD BURNS

Welcome Madam Secretary. We appreciate your making the time today to appear before the committee in support of your fiscal year 2004 budget request.

While I suspect we will get into a number of topics today, there is one aspect of the Department's budget request that really jumps off the page. I am talking, of course, about Indian trust reform.

Compared to the fiscal year 2003 enacted level, the Department's request for programs under this subcommittee's jurisdiction represents an increase of about \$370 million. Of that total increase, at least \$180 million is for trust reform activities in the Office of Special Trustee and the Bureau of Indian Affairs. The bulk of that increase is to implement the Department's plan for historical accounting. This is a remarkable concentration of resources on a single task.

Madam Secretary, we applaud the commitment you have made to trust reform, both in dollars and in terms of your personal attention. I know it has occupied far more of your time than you ever imagined, and that the litigation has taken a toll on morale within the Department.

But I think all of us are struggling with the fact that the increasing resources being devoted to trust reform are resources that might otherwise be spent improving Indian schools, maintaining our national parks and public lands, or working with landowners to eliminate noxious weeds and conserve critical wildlife habitat.

We know that it will take money to fix the trust problem. Madam Secretary, I think you would agree that over the years this Committee has been very responsive to the Department's budget requests for trust reform. But this year's request—particularly with respect to historical accounting—really forces this committee to ask some tough questions.

On the one hand, I don't think any of us want simply to give up on historical accounting. I'd hate to condemn the Federal Government to paying billions of dollars in damages that may or may not have occurred. On the other hand, can we justify spending hundreds of millions of dollars to perform an historical accounting that will undoubtedly be disputed in Indian country? What will such an accounting ultimately tell us? And what needs in Indian Country will go unfulfilled while we go through this very expensive process?

These are difficult issues, Madam Secretary, and we're anxious to hear your thoughts on them today. Certainly we'll have a lot else to talk about as well, so I'll conclude my remarks at this time and ask Senator Dorgan if he has an opening statement.

Senator BURNS. It is good this morning to recognize my co-partner on this committee, Senator Dorgan. It is your turn.

#### OPENING STATEMENT OF SENATOR BYRON L. DORGAN

Senator DORGAN. No, no. Mr. Chairman, I am just trying to digest all that you have just said.

I agree with much of what the chairman has said. And, Madame Secretary, let me say, first of all, that I welcome you and look forward to working with you on these issues. You know, perhaps, that today I will ask you about the United Tribes Technical College and the proposal to de-fund that. I will ask you about some issues that are not necessarily the purview of this subcommittee dealing with NAWS funding and some things, some commitments we have made that the President's budget does not keep.

I note some things in the budget that I think give us some heart, taking care of parks. The proposal to increase the maintenance backlog in national parks, I think, makes a lot of sense. I mean, we just cannot keep pushing that off. And a number of administrations have done that. I think there are some solid recommendations that we will agree on.

The Senator from Montana described the funding issue with respect to Indian schools. And it is not right and not fair, in my judgment, to decide we are going to actually decrease the money that is available to Indian schools. I know that you probably will argue, "Well, the funding for last year included \$2 million that was added by the Congress." But even at that, we are dramatically below the per-student support that we provide to other colleges in this country.

So on that I think you will find that this subcommittee feels very strongly about Indian education. And the tribal colleges have been a remarkably effective way to allow people to escape from poverty, to get educated and move to a payroll, get a good job as a result of the training and the education they get at tribal colleges.

#### PREPARED STATEMENT

So we have a number of things to talk about. You run a very big agency. It does a lot of different things. Some I think it does exceptionally well. Some perhaps can well use some improvement. So I look forward to visiting with you about all of those issues, Madame Secretary.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR BYRON L. DORGAN

Madame Secretary, thank you for being here this morning to present the department's fiscal year 2004 budget request. We understand that you have many responsibilities and many demands placed on your time, and so we appreciate your willingness to come before this subcommittee to answer our questions.

As you know, the services provided by the Department of the Interior are vitally important to our constituents and reach well beyond the traditional notion of parks and wildlife refuges. Many North Dakotans, for example, rely on the programs of the Bureau of Indian Affairs. From education, to community development, to law enforcement, to environmental and resource management, the BIA is critical to the Native American population in my state, and I think in the Chairman's state, too. Yet, as I look at the administration's budget, I am deeply concerned with the way the administration has prioritized its scarce resources. While some agencies and programs have received 3 or 4 or 5 percent increases, total funding for tribal allocations goes up by less than 1 percent and funding for tribal colleges is cut by nearly 9 percent. These are serious flaws, Madame Secretary.

Mr. Chairman, despite my reservations, I look forward to hearing the Secretary's testimony, and I have no doubt that she will put the best face on a rather dismal situation. Nevertheless, as this process proceeds, I hope to work with you to rectify what I think are fundamental mistakes in the way this budget has been arranged.

Senator BURNS. Thank you, Senator Dorgan.

Senator Stevens.

We are blessed with the chairman of the full committee this morning.

Senator STEVENS. Not for long.

#### OPENING STATEMENT OF SENATOR TED STEVENS

Madame Secretary, I want to invite you—I heard you are interested in going out to the end of the Aleutian chain. I would encourage you to do that and tell you that if you do that, we will get a plane and take a few other people along with us. It is the forgotten place of World War II. More people were killed in the Aleutian battle than were killed in the Battle of the Coral Sea.

The battles took place at approximately the same time. Very interesting place. We would go to Kiska and Attu and Shemya and Dutch Harbor. I think it is a wonderful thing if you show some interest there, because there are many people who would like to go there, but there are no facilities to do so. We have prohibited that because of the withdrawals made by your predecessors.

So I think it would be wonderful if you would just look at it. I think the World War II veterans, their families, would be very interested to see some means of access to those areas.

I have a long statement here to make, but let me do this for the convenience of the committee and for the time factor that you have. My colleague, Lisa Murkowski, Senator Murkowski, and I would like to talk to you about the delay in terms of land conveyances to both the Alaska natives and the State of Alaska. We would like to set a deadline for getting all that done, which includes accelerating the surveying.

We would like to talk to you about the proposed regulations of the Park Service concerning commercial use that put commercialization within the national parks, as far as those people who are recognized to have rights to conduct their business activities within the parks. As you know, we have, I think, more than 70 percent of the total areas with the national parks that are in our State. There are two categories, those that were national park areas before 1980 and those after 1980. The 1980 Act preserved a considerable number of rights for Alaska native people and other Alaskans with the additions to the national park system that was created by the 1980 Act. Those regulations, in our opinion, do not recognize the rights that were preserved by the 1980 Act. And I would encourage you to review that. My statement, full statement, deals with some of those.

Of basic concern, really, is the restriction of access across the parklands. We accept the fact that the pre-1980 parks and their acreage are not subject to the rights created, or really preserved in the 1980 Act for the enormous additions. That Act withdrew over 100 million acres of our State. And without the rights for access across those lands that were preserved, the native lands and the State lands that are beyond them become absolutely inaccessible, unless we build some really crazy roads that would go north, south, east, and then west and back north again. It would be impossible to get money for Federal roads of that type. But I would urge you to take a look at it with regard to that.

We have also raised the issue of fires on Federal lands. It is an interesting thing. We burned over 7.1 million acres nationwide. And there was little attention paid to fires in Alaska. When a few hundred thousand acres burned around Montana or Colorado around national parks, they flew Alaska firefighters down there to fight it.

We think there has to be some standard made in terms of the regions of Alaska that are going to be given fire protection because in many instances, those fires rushed across State lands and Federal lands. And by the time they reached our lands, they were just out of control. I can show you that right in Kenai just south of where I live.

Also, we have a problem with—the spruce bark beetles have killed millions of acres of land. And we know that when fire starts, the fire goes through the beetle kill area, the dead timber first. And that, too, with the dry winter we have had, we feel this 2 million acres in the south-central area alone have been killed by the birch beetles, most of them on Federal land. But there is no action being taken. And I understand, in fact, the people I call extreme environmentalists oppose taking action on Federal land to remove that dead timber. That dead timber jeopardizes half of our population. We are not very big in population, but half of the population

of Alaska is still important. And we are surrounded by that beetle kill.

#### PREPARED STATEMENT

So, Mr. Chairman, let me put the whole statement in the record.

I will send you a copy, Madame Secretary, and save the rest of the time. Let me take the time to congratulate you on what you are doing. I think you are a breath of fresh air in being willing to listen. I am not sure I always agree with you, but you will listen. And we look forward to working with you. And I am particularly proud to be a member of this committee so I can listen to you.

Thank you very much.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR TED STEVENS

Good morning Madam Secretary. An issue of concern to myself and to Senator Lisa Murkowski is the pace of the Bureau of Land Management's Alaska Land Conveyance Program.

As you know, the BLM was tasked with completing work on Native allotments and land selections mandated by both the Alaska Statehood Act of 1959 and the Alaska Native Claims Settlement Act of 1971.

That task has not been completed.

This delay has severely impacted the ability of the State of Alaska and our Native groups from developing their resources and furthering the economic development of the State.

Language included in the fiscal year 2003 Omnibus Appropriations bill directs the Bureau to develop a plan to ensure that allotments and conveyances are completed by 2009.

I would like to get your commitment that the BLM will abide by its obligations and complete the land conveyance program by 2009.

I know that Senator Murkowski is committed to assisting you and the BLM in this effort through her membership on the Energy and Natural Resources Committee.

And I commit to providing the BLM the resources it needs to develop this plan.

Another issue is the National Park Service's proposed regulations concerning the issuance and administration of commercial use authorizations in National Parks.

As expressed to you in a February 6, 2003 letter from Senator Murkowski, Congressman Don Young and myself, these proposed regulations fail to comply with the Alaska National Interest Lands Conservation Act of 1980. The 1980 law is the controlling authority on public lands in Alaska and any Park Service regulations must conform with this law.

I would like your assurance that the Department and the Park Service are committed to working with the State of Alaska, interested parties and Alaska Native groups in developing regulations which are consistent with the 1980 law.

Additionally, Denali National Park recently issued its draft backcountry management plan.

I am concerned that some of the alternatives, if implemented, would restrict public access to our Parks.

Access to public lands is an issue that I have struggled to protect first as a solicitor your Department, in the Alaska State House, and in my 34 years in the Senate.

I will oppose any plan which imposes unnecessary limits on the public's right to visit their Parks.

I understand that Denali's superintendent and his staff have held public hearings and meetings on this management plan.

I encourage these efforts in order to ensure that the final plan balances the protection of our natural resources with the public's right to access for recreational, economic and social purposes.

I am pleased with the proactive stance the administration has taken in the area of wildfire prevention and suppression through the healthy forests initiative.

In recent years we have witnessed catastrophic fires which burned over 7.1 million acres, affecting several regions in the United States including Alaska.

In Alaska, we have a particular problem with Spruce Bark beetles which have decimated spruce forests in the Kenai Peninsula area along the Kachemak Bay wa-

tershed and the Copper River basin near Wrangell-St. Elias National Park and preserve.

The Spruce Bark beetle problem along with an extremely dry winter season in Alaska raises serious concerns for this coming fire season.

I hope that your efforts in fire prevention and suppression will include funding to address Alaska's Spruce Bark beetle problem.

As you know, we have begun the fiscal year 2004 appropriations process. It has come to my attention that the committee does not have the most current data for public lands being administered by the Department of Interior.

In order to appropriately allocate scarce resources towards the management of our public lands, I request that the Department provide the committee with statistics on federally owned land by agency in each State and Territory by acreage and percentage of total State area.

These statistics should also include the total wilderness areas within each State.

Senator BURNS. Thank you, Mr. Chairman. Appreciate that, and appreciate you dropping by this morning.

Madame Secretary, again, welcome to the committee. We look forward to your statement. Your full statement will be made part of the record, if you want to summarize and hit the high points of what you would like to tell the committee. Thank you, and your guests, for coming this morning.

#### SUMMARY STATEMENT OF HON. GALE A. NORTON

Secretary NORTON. Good morning and thank you, Mr. Chairman. It is a pleasure to once again address this committee and talk with you about our budget for fiscal year 2004. I appreciate the opportunity to highlight a number of our initiatives.

I am accompanied today by Lynn Scarlett, who is our Assistant Secretary for Policy, Management and Budget, and John Trezise, who is the Department's Budget Director.

Interior takes pride in its mission to protect and manage the Nation's natural resources and cultural heritage, provide scientific information about those resources, and honor our special responsibilities to American Indians, Alaska Natives, and affiliated island communities. Our programs touch the lives of individuals across the Nation. How well we fulfill our mission influences whether farmers will have water and people can turn on the tap, whether our children will enjoy America's vistas, places in history, and whether we can hike, bird watch, canoe, or hunt and fish in the great American outdoors.

Our 2004 budget request lays the foundation for us to build a legacy of healthy lands and thriving communities. Our request for programs under the purview of this subcommittee is \$9.8 billion. This is the largest Presidential request in the Department's history. It is a 28 percent increase over the 2000 budget.

The Department of the Interior is not quite self-supporting. We bring in \$3 for every \$4 in expenditures. The Department anticipates that it will collect \$7.8 billion in revenue in 2004.

#### TRUST REFORM INITIATIVES

As the chairman noted, our largest increase is in the area of trust reform initiatives. Fulfilling our trust responsibilities presents a major challenge. The challenge is both retrospective and prospective. We inherited a history of inadequate management of trust accounts. Our budget lays the groundwork for a better future.

Our budget for Indian trust programs includes \$554 million for trust operations and reform. Our budget proposal reflects new management concepts that grew out of consultation efforts, including a reorganization of Interior trust offices to improve delivery of services. The budget provides an increase of \$183.8 million for trust programs, which is an increase of nearly 50 percent over 2003.

We also have a substantial increase for the Office of the Special Trustee, bringing it to \$275 million. Within the Office of the Special Trustee request is \$130 million for the Office of Historical Trust Accounting, an increase of \$114 million over the 2003 level. These funds will provide a major down payment toward our plan to complete a historical accounting for individual Indian money accounts. We submitted a plan to the district court in the Cobell litigation on January 6 that outlines the details of how we would do that historical accounting.

Once this accounting is completed, we should be able to resolve the disputes about whether the books are off by billions of dollars or the much smaller amounts that we expect. We hope to improve our management of our Indian trust program by consolidating our portfolio. Today we manage interests in land that are very tiny, as small as .00002 of an 80-acre tract of land. These areas often provide less than \$1 a year in income to the owners.

Fractionated interests in individual Indian-allotted land continue to expand exponentially as these small fractions pass through the generations. The 2004 budget proposes \$21 million for Indian land consolidation, which is an increase of \$13 million. These funds will enable us to expand our pilot efforts to reduce the fractionation of individual land ownership interest in a nationwide program. This is only a very small part of what will be needed to accomplish a nationwide consolidation of these lands. But it gives us an opportunity to begin tackling this problem seriously.

Our budget also lays the foundations for leaving a legacy of healthy lands. Our request presents a blueprint for fulfilling the President's vision of a new environmentalism of citizen stewards and cooperative conservation. Building partnerships lies at the heart of this effort. Enduring conservation needs many helping hands on the landscape. It requires a nation of citizen stewards.

#### COOPERATIVE CONSERVATION INITIATIVE

Last year we proposed a cooperative conservation initiative. This year we are restructuring that program around our bureau challenge cost-share programs and cooperative conservation grant programs. It will tap into the tremendous potential that resides in conservation partnerships. It will better enable our land managers to join with Americans across the nation in caring for the land. Thousands of landowners and organizations remain on waiting lists to participate in our cooperative conservation grant programs.

The 2004 budget includes \$113 million for this initiative, including an increase of \$9 million for the Partners for Fish and Wildlife Program. This will allow us to partner with 2,500 landowners and restore wetlands, uplands, and riparian habitats through voluntary conservation agreements.

## MAINTENANCE BACKLOG

As Senator Dorgan described, the maintenance backlog in the national parks has been a continuing problem. We need to take care of these lands. We need to take care of the buildings and infrastructure through which we serve the millions of visitors to our parks, refuges, and BLM recreation sites. We are continuing our commitment to fulfill the President's pledge of addressing the maintenance backlog, proposing nearly \$706 million for national park backlogs.

To date, the National Park Service accomplishments have been impressive. But we still have more work to do. A key focus will be to improve park roads. Here, too, we are reaching out to partners. The Federal Highway Administration has helped us review our roads program to see how we can operate it more efficiently. And the budget request for maintenance of park roads is in the Department of Transportation budget as part of the Federal Lands Highway bill.

## ENERGY DEVELOPMENT

Lands managed by Interior include working landscapes where ranchers, energy partners, and other entrepreneurs help ensure that Americans have food, can warm their homes, and have shelter for their families. Federally managed lands in onshore areas supply about a third of the Nation's oil, natural gas, and coal. Our 2004 budget provides \$2 billion to support the development of geothermal energy on public lands, as well as increased wind and solar energy opportunities. Our renewable energy program budget is more than five times the 2002 amount.

Our budget also includes increased funding to facilitate the development of coal bed natural gas reserves, an abundant clean source of energy.

## INDIAN EDUCATION

No task is more important to all of our communities than educating our children. As we seek to educate our children, the President has committed to leave no child behind. At Interior, this commitment centers on the children educated at BIA schools and educated with Bureau assistance. The 2004 school operations request is over \$529 million. The children also need safe, functional places to learn. Our budget includes a request to invest \$293 million, including funds to replace at least seven decaying and dilapidated school facilities.

## RECREATION OPPORTUNITIES

Perhaps the closest connection that Americans have with the Department is through recreation opportunities. With almost 500 million visits to our public lands, Interior provides a wide array of recreational opportunities. We are seeing a dramatic increase in visitation to our Bureau of Land Management lands where we are requesting increased funding to enable BLM to continue to provide high quality recreational opportunities.

## EVERGLADES RESTORATION

Our Everglades restoration efforts also affirm the power of partnerships. As stewards of about one-half of the remaining Everglades ecosystem, the Department works with a broad team of Federal, State, and local partners. In 2004, the President's budget included \$112 million for Everglades activities, an increase of almost \$28 million over the 2003 enacted level.

Near these Everglades restoration efforts is Pelican Island, the Nation's first national wildlife refuge established 100 years ago. We just celebrated the anniversary of the wildlife refuge system with large events there at Pelican Island. And our budget builds on last year's historic increases for refuges with an increase of nearly \$34 million for refuge operations and maintenance, bringing the total to \$402 million. Together, our increases for last year and this year set forth an additional \$82 million increase in our national wildlife refuges.

## OTHER PROGRAM INITIATIVES

The fisheries program is also an important Fish and Wildlife Service activity. The budget recognizes this and includes a \$7 million increase for the national fish hatchery system.

The National Resource Challenge is an important component of the President's commitment to improving natural resource management in our parks. It strengthens the scientific basis of knowledge about our national parks. Our budget includes nearly \$9 million to increase this program.

The Land and Water Conservation State Grant program is a cornerstone of our commitment to involve State governments in conservation planning. Our budget requests \$160 million for the traditional State grant program, which is a \$63 million increase over the 2003 level enacted by Congress.

The President's budget includes full funding for the Land and Water Conservation Fund at \$900 million through a medley of programs that emphasize achieving LWCF goals through partnerships. We have two central resource protection goals. First is to leave a legacy of healthy lands by targeting our budget toward caring for the vast lands under our stewardship. Second is to extend our conservation and recreation achievements through partnerships.

Through a mix of grant programs, we propose to leverage Federal LWCF dollars. These programs engage States, tribes, and other partners allowing us to achieve conservation and outdoor recreation goals across many lands and with many landowners. Through leveraging using conservation easements and other agreements, we are able to achieve more conservation than we would through fee acquisition alone.

## WILDLAND FIRE

There are two problems that we need to address in an ongoing way. And one of those that has attracted a lot of attention from this committee is the problem of wildland fire. Last year over 7 million acres of Federal lands went up in flames during catastrophic wildfires. The President's healthy forest initiative will help

us reduce decades-long buildups of underbrush and unnaturally dense forests.

The budget continues a high level of funding, \$186 million, to reduce the buildup of brush, dead vegetation, and fire-prone invasive species. This will allow us to reduce the risk of catastrophic wild-fire. The best approach for the long run is in building public-private partnerships. Stewardship contracting allows us to do that. Thanks to the subcommittee's efforts, we now have stewardship contracting authority. We are moving forward with getting that in place, working with the Forest Service on some joint standards for those programs, and beginning to get our contracting going.

#### SECURITY

We are also investing in greater security for our monuments and for public lands that border Mexico and Canada. The 2004 budget includes \$46.8 million for increases in improved security to protect our visitors, employees, and resources. Over \$10 million of this increase will be targeted to public lands located along the borders.

An additional \$34 million is slated for site security improvements at the Jefferson National Expansion Area in St. Louis, Independence National Historic Park in Philadelphia, and the Jefferson Memorial and Washington Monument here in Washington.

#### SCIENCE

At the foundation of all Interior's efforts is scientific information, and it is the cornerstone of our research management activities, providing a basis for decisions about resource protection, use, recreation, and community-based programs. The 2004 budget proposes a \$17 million increase for USGS to enhance science support to Interior's bureaus to meet their high-priority needs and address other high-priority research needs, including invasive species control.

Thank you very much for the opportunity to discuss our budget. We are working to better manage through partnerships. Our ability to leave a legacy of healthy lands and thriving communities depends on how well we can build those partnerships. Our budget sets forth the tools through which we can accomplish those goals.

Thank you.

[The statement follows:]

#### PREPARED STATEMENT OF GALE A. NORTON

I am pleased to be here today before the Subcommittee on Interior and Related Agencies to discuss with you the fiscal year 2004 budget for the Department of the Interior. I appreciate the opportunity to highlight a number of important initiatives and to answer questions that you might have.

As an introduction to our 2004 budget request, I'd like to offer some observations about the Department's mission. We take a great deal of pride in our mission to:

- Protect and manage the Nation's natural resources and cultural heritage;
- Provide scientific information about those resources; and
- Honor our special responsibilities to American Indians, Alaska Natives and affiliated Island Communities.

Our responsibilities touch the lives of each individual across the Nation. How well we fulfill our mission influences:

- Whether farmers will have water and people can turn on the tap;
- Whether our children will enjoy America's grand vistas, places, and history;
- Whether we can hike, bird watch, canoe, or hunt and fish in the great American outdoors; and
- Whether our landscapes are healthy and our communities are thriving.

## BUDGET OVERVIEW

Our 2004 \$9.8 billion budget request provides the single clearest statement of how we plan to honor these commitments in the upcoming year. It lays the foundation for us to build a legacy of healthy lands and thriving communities, including:

- Resource Protection—Reflecting the Department's multiple missions, the budget proposes \$2.5 billion to fund programs that improve the health of landscapes, sustain biological communities, and protect cultural resources.
- Serving Communities—The budget proposal includes \$5.0 billion to serve communities through fire protection, generation of scientific information, education investments for American Indians, and through activities to fulfill responsibilities toward American Indians, Alaskan natives, and the Nation's affiliated island communities.
- Resource Use—Interior lands include many working landscapes where ranchers, energy partners, and other entrepreneurs help maintain thriving American communities and a dynamic economy. The budget includes \$728 million to provide access for these important uses.
- Recreation—\$1.4 billion in fiscal year 2004 budget investments will ensure recreational opportunities for all Americans in the network of public lands, parks and refuges that the Department administers.

In total, the 2004 budget is the largest presidential request in the Department's history. The 2004 request includes \$9.8 billion for programs funded in the Interior and Related Agencies Appropriations Act, an increase of \$369.8 million or 3.9 percent over the 2003 enacted level. Permanent funding that becomes available as a result of existing legislation without further action by the Congress will provide an additional \$3.0 billion, for a total 2004 Interior budget of \$12.8 billion. The Department anticipates that it will collect \$7.8 billion in receipts in 2004, equivalent to 73 percent of Interior's current appropriations request.

## TRUST PROGRAMS

Over one-half of our \$369.8 million increase for 2004 will fund trust reform initiatives. While the overall budget request is approximately 3.9 percent over the fiscal year 2003 request, our fiscal year 2004 Indian trust budget request is almost 50 percent higher than what was included in the 2003 appropriations act.

Fulfilling our Trust responsibilities remains one of the Department's greatest challenges. The Department has responsibility for the management of 100,000 leases for individual Indians and Tribes on a land trust that encompasses approximately 56 million acres. Leasing, use permits, sale revenues, and interest of approximately \$226 million per year are collected for approximately 230,000 individual Indian money accounts, and about \$530 million per year are collected for approximately 1,400 tribal accounts per year. In addition, the trust manages approximately \$2.8 billion in tribal funds and \$400 million in individual Indian funds.

Interior faces many challenges in reforming the management of its Indian trust responsibilities. First, the Department has not been well structured to focus on its trust duties. Second, fractionated interests in individual Indian allotted land continue to expand exponentially with each new generation. Today, there are approximately four million owner interests in the 10 million acres of individually owned trust lands. These four million interests could expand to 10 million interests by 2030 unless an aggressive approach to fractionation is taken. There are now single pieces of property with ownership interests that are less than 0.000002 of the whole interest.

Third, there are 230,000 open individual Indian money accounts, the majority of which have balances under \$100 and annual transactions of less than \$1,000. Interior maintains thousands of accounts that contain less than one dollar, and has a responsibility to provide an accounting to all account holders. Unlike most private trusts, the Federal Government bears the entire cost of administering the Indian trust. As a result, the usual incentives found in the commercial sector for reducing the number of accounts do not apply to the Indian trust.

An increase of \$114.1 million for the Office of Historical Trust accounting will support the Department's plan to conduct a historical accounting for individual Indian money accounts and to account for funds in Tribal accounts. On January 6, 2003, the Department presented a plan to the District Court in *Cobell v. Norton* for the historical accounting for about 260,000 IIM accounts. The work described in that Plan is expected to take five years to complete and is preliminarily estimated to cost approximately \$335 million. The budget includes \$130.0 million for these historical accounting activities. Funds also will be used to provide for historical accounting activities related to tribal accounts.

The 2004 budget proposes \$21.0 million for Indian land consolidation, an increase of \$13.0 million, to expand pilot efforts to reduce the fractionation of individual land ownership interests into a nation-wide program. During 2003, we will establish a national program office, standardize business practices, and develop a strategic plan to guide expansion to more tribal reservations.

Interior is reorganizing trust functions in BIA and OST. The new organization was developed after detailed analysis of the prior organization and a year-long consultation process with tribal leaders. In one of the most extensive consultation efforts ever undertaken by the senior management level at the Department on any issue relating to Indian Country, over 45 meetings with tribal leaders provided detailed findings and recommendations. The new organization reflects a synthesis of the views heard during the consultation process. It will meet fiduciary trust responsibilities, be more accountable at every level, and operate with people trained in the principles of trust management. The 2004 budget provides an increase of \$15.0 million to support the new organization, which together with base funding available in BIA and OST will provide resources needed for the new organization in 2004.

The proposed \$183.8 million increase for trust management reforms includes funding to help rebuild Bureau of Indian Affairs information technology infrastructure to support trust and non-trust programs. The BIA's information infrastructure and security use outmoded hardware and software that do not meet lifecycle management and systems architecture principles, and do not comply with the security requirements of OMB Circular A-130 and the Government Information Security Results Act. The Department requests IT funding for the significant new investments needed to address these challenges. The 2004 budget includes increases of \$29.6 million for a ground-up rebuilding of the BIA IT infrastructure to support trust, as well as non-trust programs, and \$2.5 million for Interior-wide IT security. The proposed rebuilding will fit within the enterprise architecture and includes full business cases for proposed investments.

The 2004 budget also proposes an increase of \$4.5 million to accelerate a new strategy to administer, manage, search, retrieve, and store trust records. Reform efforts to date have improved records collection and security. However, recent Interior reviews have resulted in a reassessment of the resource requirements needed to establish proper records retention schedules, establish and implement record keeping requirements, safeguard records, implement and maintain training programs, and meet records-retrieval needs in an effective and cost-efficient way.

#### COOPERATIVE CONSERVATION INITIATIVE

The 2004 budget lays the foundation for a legacy of healthy lands, presenting a blueprint for fulfilling the President's vision of a new environmentalism of citizen stewards and cooperative conservation. Building partnerships lies at the heart of this effort. Last year's budget proposed a Cooperative Conservation Initiative. This year, our budget again includes a Cooperative Conservation Initiative, structured around bureau Challenge Cost Share programs and other existing cooperative conservation grant programs.

The Cooperative Conservation Initiative, funded at \$113.2 million, will empower citizen stewards to conserve and protect natural resources, while also achieving important community and economic goals. The Initiative builds on existing conservation partnership programs and will provide new and expanded opportunities for landowners, land managers, and others to participate in projects that foster innovation and create incentives for stewardship. Our budget also provides funds for a public lands volunteers program.

The 2004 CCI request builds upon Interior's long history of working collaboratively with others. It builds on existing conservation partnership programs, including the challenge cost share programs of the Bureau of Land Management, Fish and Wildlife Service, and National Park Service, as well as FWS's Partners for Fish and Wildlife program, Coastal program and Migratory Bird Joint Venture program. This initiative also funds a program of volunteers to increase public awareness of, and appreciation for, natural and cultural resource protection.

The CCI request includes a \$9.1 million increase for the Partners for Fish and Wildlife program, the largest increase ever provided to this program. The Fish and Wildlife Service will partner with 2,500 additional landowners on the program's waiting list. These new partnerships will restore an additional 19,298 acres of wetlands; 83,601 acres of native grasslands, forest and other uplands; and 241 miles of riparian and in-stream habitat over 2003 levels.

## CONSERVATION GRANTS

The Private Stewardship grants and the Landowner Incentive Program recognize continuing opportunities for conservation of endangered and threatened species through partnerships with private landowners. The budget request includes \$50.0 million for Private Stewardship grants and the Landowner Incentive program. Interest in the State portion of the program is high, with over 80 grant requests totaling \$61.0 million for the program's first year.

The 2004 budget request includes a comprehensive, partnership approach to meeting the President's commitment for fully funding the Land and Water Conservation Fund. The 2004 LWCF program includes \$662.4 million for the Department. It emphasizes conservation partnerships with States, Tribes, local communities, and private citizens, including a strong State grant program, and reduced Federal land acquisition. This proposal recognizes the costs of adding to the significant land holdings that are already managed by the Department and our commitment to take better care of these lands. It also recognizes the value and cost-effectiveness of partnerships. We can accomplish our conservation goals by conserving endangered and at risk species through conservation easements, working with private landowners to enhance habitat for endangered and at risk species, and other innovative partnership approaches.

## CONSERVING WILDLIFE AND FISHERIES

March 14, 2003 marks a milestone in the history of wildlife conservation in America—the centennial anniversary of the national wildlife refuge system. Reflecting the importance of this event and the record of conservation established through this unique system of lands and resources, the 2004 budget builds on last year's historic \$48.4 million budget increase for the national wildlife refuge system by requesting a total of \$402.0 million for refuge operations and maintenance, an increase of \$33.6 million over 2003 appropriation levels. The total budget request for the Fish and Wildlife Service is \$1.3 billion.

The Fish and Wildlife Service fisheries program has played a vital role in conserving and managing fish and other aquatic resources. The 2004 budget enhances the Federal contribution to aquatic resource conservation partnerships, by providing \$103.6 million for the FWS fisheries program. The request includes an \$3.9 million increase for operation and maintenance of the national fish hatchery system's hatcheries, fish health centers, and fish technology centers. Also included is a \$1.0 million increase to combat aquatic nuisance species, part of the larger, coordinated interdepartmental effort discussed below.

## OTHER PARTNERSHIPS

As stated earlier, the 2004 budget is based on a vision of partnerships and leaving a legacy of healthy lands and thriving communities resulting from efforts to work together across landscapes and across communities. The 2004 budget sets forth the tools through which these partnerships can flourish and leave a legacy of healthy lands and thriving communities.

The Department's parks, refuges, and public lands host nearly 500 million visitors a year and provide access for economic uses, activities that fuel the economic engines for communities adjacent to our Federal lands. Recognizing that the Department's decisions can greatly impact these gateway communities, the Department is working in partnership with the people who live on the private lands that border these areas and developing collaborative approaches to address local issues.

*Everglades.*—The Everglades restoration effort also affirms the power of partnerships. As stewards of about one-half of the remaining Everglades ecosystem, the Interior Department works with a broad team of Federal, State and local partners. In 2004, the President's budget includes \$112.3 million for Interior Everglades activities, an increase of \$27.8 million above 2003 enacted appropriations. The request includes \$40.0 million to protect the Big Cypress National Preserve by acquiring the Collier family's mineral right holdings.

Exemplifying the partnership approach to this restoration effort, the Department is building stronger coalitions to implement the restoration program, including:

- Forming an advisory committee for public input to land managers in South Florida on a wide range of issues;
- Providing scientific expertise to the State and the U.S. Army Corps of Engineers to meet the objectives of the Comprehensive Everglades Restoration Plan; and
- Taking steps to ensure that appropriate quantities of water are distributed at the right times and in the right places to restore the unique Everglades ecosystem.

*Invasive Species.*—The Department is participating in an interagency performance budget to promote invasive species management that is being coordinated by the National Invasive Species Council. The 2004 budget proposes \$57.5 million for the Department's portion of this interagency effort.

At this funding level, Interior will participate in the control and management of tamarisk and giant salvinia in the southwest; conduct ballast water research; control and eradicate nutria in the Chesapeake Bay and in Louisiana; plan early detection and rapid response to eradicate outbreaks of sudden oak death in eastern hardwood forests of the central Appalachian Mountains; and develop a marine invasive species early detection warning system.

*Abandoned Mine Reclamation and Clean Streams.*—Through partnerships the Office of Surface Mining is restoring streams impacted by coal mining. Its Clean Streams program involves State and local groups to enhance miles of riparian areas. The President's budget request includes \$281.2 million for State and Federal programs to protect the environment during coal mining, assure prompt reclamation after mining, and clean up abandoned mine lands. The request will enable OSM to continue directly administering Federal regulatory and reclamation programs in States that do not operate their own surface mining programs as well as on Federal and Indian lands, and to reclaim 6,900 acres of disturbed land and other hazards that threaten human health and welfare and environmental quality.

*Payment of Lieu of Taxes.*—The President's proposal calls for \$200.0 million for Payments in Lieu of Taxes, to compensate States for Federal lands that cannot be taxed by local governments. The 2004 budget proposes to move the program from the Bureau of Land Management to the Departmental Management account to reflect the breadth of this program. The lands on which the payments are made are administered by the NPS, FWS, and USDA Forest Service, as well as by the Bureau of Land Management.

#### WILDLAND FIRE AND HEALTHY FORESTS

Building a legacy of healthy lands and thriving communities means applying a healing hand to the landscape. The Department is advancing the President's Healthy Forests Initiative to reduce decades-long build-ups of underbrush and unnaturally dense forests.

The budget proposes \$698.7 million for wildfire prevention and suppression and Healthy Forest initiatives in fiscal year 2004. This is a \$48.5 million, or 7.5 percent increase over last year's budget proposal. The request includes continued funding for a robust fuels treatment program at \$186.2 million, 400 percent above spending in 2000. At this funding level, the Department will treat 307,000 high priority acres in the wildland-urban interface and an additional 768,000 acres that are not in the wildland-urban interface.

The Department is also taking a number of steps to improve the productivity and performance of the fuels program that will help the Department's firefighting bureaus take maximum advantage of the opportunity for fuels treatment projects at the beginning of the fiscal year when weather and workload conditions for fuels treatments are optimal. The Department is accelerating project planning and selection, issuing policy guidance and proposed legislative language designed to facilitate and expand contracting in the fuels program, and issuing policy guidance to expedite the budget allocation process for the fuels program and individual projects.

The fuels treatment program is key to restoring forests and rangelands to long-term health and preventing damage caused by catastrophic wildfires. One approach to improving forest health that holds promise is stewardship contracting. Stewardship contracts allow the private sector, non-profit organizations, and local communities to productively use materials generated from forest thinning.

The 2004 budget proposal also calls for \$282.7 million for fire preparedness, including increased funding for aviation contract costs. The fire suppression request of \$195.3 million reflects a \$36.0 million increase to fund suppression operations at the revised 10-year average. This funding level will provide resources to respond to an "average" fire year without having to rely on emergency borrowing that can be disruptive to other Interior programs. The Department is also working to develop new and improved current cost control strategies for suppression. The budget also includes \$24.5 million for rehabilitating burned areas. Timely stabilization and rehabilitation of severely burned areas are critical to prevent further damage due to erosion, loss of soil nutrients, and the introduction and spread of invasive species. The budget also continues funding for Rural Fire Assistance at \$10.0 million. Frequently, local firefighting departments are the first responders to wildland fires on public lands and play a vital role in preventing fires from escaping initial attack and becoming exponentially more expensive to suppress. In 2002, the Department

assisted 5,349 rural and volunteer fire departments through grants, technical assistance, training, supplies, equipment, and public education support.

#### HELPING TO MEET THE NATION'S ENERGY NEEDS

Interior plays a central role in meeting the Nation's energy needs. Conservation, renewable energy, and traditional energy sources all play an intertwined role in helping the Nation meet these needs. The budget supports the President's and the Department's goal for increasing domestic energy supplies from a variety of sources, in an environmentally acceptable manner, with a special emphasis on developing renewable energy sources on Federal lands.

The 2004 budget request includes an increase of \$444,000 for activities on the North Slope, for a total of \$8.4 million. Funding will support planning for sales in the National Petroleum Reserve-Alaska, and, if authorized, the Arctic National Wildlife Refuge. Congressional authorization will be required for a lease sale to be conducted in ANWR.

The budget requests an increase of \$2.0 million for BLM to strengthen inspection and enforcement activities, targeted primarily to the Powder River and San Juan basins. The budget also proposes a \$500,000 increase to expand resource monitoring to improve assessment of the cumulative impacts of oil and gas development, especially on cultural resources and species at risk.

The 2004 budget includes \$2.0 million for renewable energy resources. This includes an increase of \$100,000 over 2003 enacted appropriations to support the development of geothermal, wind, and solar energy on public land. This is more than five times the 2002 funding level for these programs.

The Outer Continental Shelf is projected to produce over 25 percent of both the Nation's oil and natural gas in 2003. The Minerals Management Service is the primary steward of the mineral resources on the OCS. The MMS appropriations request of \$171.3 million includes an increase of \$1.6 million to meet increased workload brought about by the demand for Outer Continental Shelf program services in the Gulf of Mexico. The 2004 budget includes a total of \$11.6 million, an increase of \$2.9 million over 2003 funding levels for MMS to employ innovative business processes and advances in electronic technology in the offshore program. The budget also includes an increase of \$300,000 to investigate the energy resource potential found in methane hydrate formations. The MMS will also invest an additional \$3.0 million to operate and maintain its minerals revenue management and royalty-in-kind systems.

The 2004 BIA request includes a \$2.0 million increase for grants to Tribes to evaluate mineral resource potential on tribal trust and restricted lands. The request also includes \$1.0 million to help Tribes expedite the development of tribal regulations governing mineral leasing and permitting, and rights-of-way of tribal lands required under the Energy Policy Act, 2002.

#### TAKING CARE OF PARKS

Complementing the Department's cooperative conservation commitments is a continued investment in taking care of National Parks. The President's budget proposes a \$2.4 billion budget for the National Park Service, an increase of \$131.4 million above 2003 appropriations.

This budget continues the Department's commitment to fulfill the President's pledge of addressing the maintenance backlog in National Parks, proposing \$705.8 million this year toward this effort, an increase of \$54.1 million, nearly an eight percent increase over 2003. The budget includes an increase of \$16.3 million for cyclic maintenance. This increase will provide additional funds for regular maintenance activities and will help the NPS keep pace with its maintenance needs and prevent additional projects from becoming deferred. It also includes an additional \$16.7 million for the repair and rehabilitation program and a \$4.7 million increase for comprehensive condition assessments at parks. Data collected through the condition assessments will be used in 2004 to evaluate progress in eliminating the deferred maintenance backlog, as measured by a facility condition index.

To date, our accomplishments are impressive. For example, the Many Glacier Hotel at Glacier National Park was built in 1914. A highly recognized National Landmark, this facility signifies an important period in the development of the National Park Service. Due to the harsh climate and insufficient maintenance in the past, this important landmark had deteriorated to a stage where emergency stabilization was necessary. The Department is in the process of stabilizing this important facility.

But we still have more work to do. A key focus in the 2004 budget will be to improve park roads. Here, too, the Department is reaching out to partners. A signed

memorandum of agreement with the Federal Highway Administration will help us achieve our road maintenance goals efficiently. The Department of Transportation's 2004 budget proposes \$300.0 million in 2004 for Park road repair as part of the reauthorization of TEA-21, bringing the total park maintenance budget to over \$1 billion.

In the National Park Service, the Natural Resource Challenge helps Park managers improve resource management by strengthening the scientific base of knowledge about park resources. Our budget proposes \$76.1 million, an \$9.0 million increase over 2003, for the program. This increase will provide a three-year cumulative total increase of over \$104 million above the 2001 level. The Natural Resource Challenge is an integral component of President Bush's ongoing commitment to improving natural resource management in Parks.

#### INDIAN EDUCATION

No task is more important to the American community than educating its children. In education, the President has committed to "leave no child behind." At Interior, this commitment centers on the 48,000 children educated at schools operated by the Bureau of Indian Affairs or by Tribes under BIA grants or contracts.

The budget request for Indian education continues the President's commitment with a robust \$528.5 million school operations budget request, including funding for teacher pay increases. The budget includes \$3.0 million to establish a separate fund for new administrative cost grants to encourage more Tribes to exercise their authority to operate BIA schools by providing full funding for start-up costs for the first year of tribal operation of bureau-operated schools.

Children deserve safe, functional places to learn. The 2004 budget invests \$292.6 million in school facilities, including funds to replace at least seven high priority school facilities and to repair schools identified in the Indian school maintenance backlog. The President's goal is to eliminate the backlog by 2006.

#### RECREATION

With almost 500 million visits each year to the Department's lands, Interior provides a wide array of recreational opportunities, including fishing, hiking, hunting, camping, and wildlife viewing. Public lands managed by the Bureau of Land Management provide recreational venues for a growing population in the West, hosting over 60 million visitors annually.

The 2004 budget requests \$48.7 million to enable the Bureau of Land Management to continue to provide quality recreational opportunities. BLM will address transportation and access needs and challenges, expand interpretive and other visitor services, and support greater outreach and consultation efforts to help resolve user conflicts in the face of growing visitation.

In recreation as in conservation, partnering is central to achieve our recreation goals. The Department depends on the contributions of 200,000 volunteers, almost three times Interior's Federal workforce, to help address resource protection and public recreation needs. Over 126,000 volunteers work in parks, the rest work in refuges, public lands, and other Interior sites across the country. In 2004 volunteers will assist NPS staff with important park projects including the Lewis and Clark bicentennial, the Powered Flight centennial, and the Jamestown 400th anniversary. The budget request proposes to increase funding by \$1.5 million for partnership efforts and volunteer recruitment and training. A \$1.0 million increase is aimed at bolstering volunteer participation and improving park capacity to supervise, train, and reward volunteers. An increase of \$500,000 will allow NPS to establish full time volunteer coordinators to manage an expanding program.

The Department's partnerships include working with States. Today, the LWCF State grant program is a cornerstone of the Secretary's commitment to involve State governments in conservation and recreation activities. This program, enacted in 1965, helps States develop and maintain high quality recreation areas and stimulate non-Federal investments in the protection and maintenance of recreation resources across the United States. Reflecting the President's goals, the Interior LWCF program seeks to promote cooperative alliances, leave land on State tax roles, and achieve conservation goals by emphasizing innovative alternatives to fee simple title purchases, such as conservation easements and land exchanges. This emphasis also enables Interior land management agencies to focus more funds on caring for lands already under their management.

The President's budget fully funds the Land and Water Conservation Fund at \$900.7 million. The LWCF proposal calls for \$160.0 million in State grants, an increase of \$62.6 million over the 2003 funding level enacted by the Congress.

## LAW ENFORCEMENT AND SECURITY

The budget requests increases for Interior's law enforcement and security programs. The funding would be used to hire additional law enforcement officers, for law enforcement agreements with States and localities, additional training, and physical hardening of key visitor sites, all of which will improve security operations Department-wide. The increase of \$46.8 million is earmarked for strengthening law enforcement and security operations at Interior refuges, parks, and public lands, including along the U.S. borders with Mexico and Canada. Included within this increase is funding for site security improvements at the Jefferson National Expansion Area in St. Louis, Independence National Historical Park in Philadelphia, and the Jefferson Memorial and Washington Monument in Washington, D.C.

## SCIENCE

All of the Department's efforts require good information. Scientific information is the cornerstone for Interior's natural resource management activities, providing a basis for making decisions about resource protection, resource use, recreation, and community-based programs. The USGS has the principle responsibility within Interior to provide its bureaus the earth and natural science information and research necessary to manage the Nation's natural resources.

The President's 2004 budget proposes \$895.5 million for the USGS. The budget includes \$17.1 million in new program increases above the 2003 conference level for high priority research needs, including invasive species control and management and increased capability to address science needs for Interior bureaus.

## CONCLUSION

The Interior Department's responsibilities lie at the confluence of people, land, and water. The 2004 budget funds programs that support our broad and multiple missions. Leaving a legacy of healthy lands and thriving communities requires resources, creativity, and, above all, collaboration. The 2004 budget supports this vision of forging partnerships.

This concludes my overview of the 2004 budget proposal for the Department of the Interior and my written statement. I will be happy to answer any questions that you may have.

## HISTORICAL TRUST ACCOUNTING

Senator BURNS. Thank you, Madame Secretary.

We have spent numerous occasions discussing your inheritance of one of the most frustrating court cases in recent memory. However, the recently released summary of the Ernst and Young analysis of the five lead plaintiffs' accounts raises questions about whether historical accounting is a wise use of Federal resources. If you could, would you please give us a quick update on the court's actions over the past few months, and how those actions impact your 2004 request?

Secretary NORTON. We submitted plans to the courts in January that set forth how we would go about doing an historical accounting and how we would improve the overall management of our trust programs to address some specific deficiencies identified by the court. We are preparing now for a trial that is set to occur starting in May that will cover those plans. The court will in essence be looking both at our plan and the plans that were submitted by the plaintiffs and evaluating those.

We also have, ongoing, an appeal to the Federal Court of Appeals from the decision that held myself and the Assistant Secretary for Indian Affairs, Neil McCaleb, in contempt of court. The oral argument on that will take place on April 24.

Senator BURNS. What message should this committee take from the Ernst and Young report?

Secretary NORTON. I think it helps illustrate the difficulty that we have in trying to resolve these issues. On the one hand, we have the plaintiffs' attorneys, who are estimating the damages that the Department and the Federal Government would owe to individual Indian account holders at \$137 billion. On the other hand, the Ernst and Young report, which looks at the accounts of specified individuals, found that there was, in reviewing approximately 2,900 transactions, a \$60 account error. So we have a wide divergence of opinion about the accuracy of the books that were handled by the Department of the Interior over time.

In essence, what we are doing through the historical accounting is verifying our bank ledgers. We have the account ledgers that say how much was given to individuals, how much was deposited, and what was received. The question is trying to find external documents that verify those account records. The court has asked us to find that external documentation.

We submitted to you all a plan for doing a complete historical accounting and finding all of the documents that would support those transactions. That basically would have cost about \$2.4 billion to do all of that accounting. We then revised that in the report that we gave to you, and the basis for our budget is to use statistical sampling on smaller transactions, as opposed to going through transaction by transaction.

We will still look at all of the transactions over \$5,000 individually and in certain other categories of transactions and account for those in a detailed way. The others we would propose to use statistical sampling.

Senator BURNS. Do you see an end to this?

Secretary NORTON. Our plan would basically have us complete all of that accounting in 5 years. That would basically be a \$335 million project over that time to complete that accounting. At that point, we would have what we view as a definitive answer as to how much those books might be off.

Senator BURNS. Looking at it from this perspective, we do not see an end to it. Either that, or we are not getting the right signals, or I am not smart enough to figure it out. Probably a combination of the two. It seems to me that this is something we do not know how we got into, and we have had very few answers on how to get out of it, until you came into office. I congratulate you on your commitment to straighten this out. I hope you have enough time to see it through to its completion.

#### INDIAN SCHOOLS

I want to ask you about the situation with the Indian schools. I know the President cut some funds out of Indian education. Then the subcommittee put them back in, especially this past year, we put \$1.7 million back into Indian education. Can I get an answer to why—the enacted 2003 level was functionally \$1.7 million over the 2002 level after an across-the-board reduction? That sounds confusing, but I guess up here people can walk their way through that.

Despite the increase, Title I TTCs are faced with an \$8-per-student reduction. The BIA split the reduction as follows: Approximately 23 percent of the total increase allocated to the Dine Col-

lege due to Dine stance as a Title II, which is a boarding school; this amounted to an increase of approximately \$60 per student. The Title I schools also sought an enrollment increase of approximately 300 Indian students. As a result, the remaining, to be put into the formula for Title I schools, resulted in a decrease of \$8 per student in fiscal year 2003.

I would like to know how we come up with those kinds of figures. Can anyone respond to that? John, can you enlighten us?

#### DIFFERENT FUNDING CATEGORIES

Mr. TREZISE. Senator Burns, your figures are correct. This is a situation that arises from the authorizing legislation which authorizes two categories of colleges, which are funded on the basis of different formulas. In addition to the colleges authorized in the TCC Act, we have two colleges which have traditionally been funded by the Congress outside of the Act, which are funded on yet other basis. So we have four different funding levels on a per-student basis.

This is a situation, I think, that does warrant some consideration. Specifically with respect to 2003, though, your figures are correct. But I would point out that of the increase of \$1.7 million over the 2003 enacted level, or \$3.6 million over the President's budget, 77 percent was devoted to the Title I colleges. This is an increase over the President's budget of about \$2.7 to \$2.8 million.

The per-student funding went down, despite that increase, because the number of students which we were expecting, which we actually have in school this year, in 2003, is higher than the student level in 2002.

Senator BURNS. It sounds like we are going to have to change the way we fund our colleges. I do not like the idea of being discriminatory one against the other. And when we try to do the overall good for everybody, it seems like we have not attained that degree of fairness.

Senator Dorgan.

Secretary NORTON. Mr. Chairman, anticipating a question from Senator Dorgan, since this is all on the same topic, we have had some discussions previously as to the United Tribes Technical College. I have asked the Assistant Secretary for Indian Affairs, the acting Assistant Secretary, to work with you all. It may be appropriate to bring that college into the same funding category, which it is my understanding would require a statutory change, as well as the Crown Point Institute of Technology, which is the other one that has usually been independently funded.

I am not familiar enough with the rest of the differences in the funding, but this might make sense as a time to try to wrap all of that into an examination of the authorizing basis for those appropriations.

Senator BURNS. I think you have a point. I am not versed enough in exactly how those stages are funded, or in what categories they fall. So I will have to do a little looking into this. It seems unfair that funds dedicated to community colleges found on reservations are increased or restored. And then what we receive per student decreases.

I have an idea that we might have been remiss in not identifying where those funds were to go. So it seems that the “haves” got, and the “have nots” got less. I find that inherently unfair.

Senator Dorgan.

#### INDIAN EDUCATION

Senator DORGAN. Mr. Chairman, thank you very much.

Again, Secretary Norton, thank you for being here. Let me start on the point that the chairman finished with; that is, Indian education. First of all, I think tribal colleges are remarkably successful. Let me tell you about—since we take a lot away from these hearings, I want you to take something away in terms of an anecdotal story about Indian colleges.

There is a young woman in North Dakota named Loretta that I have known for a good many years. Loretta Delong is her name. And she lived in a two-room log house on an Indian reservation. She stuttered. She was painfully shy, wore hand-me-down clothes. She was called a savage at school. And she wondered, you know, what it would take to be noticed. She reached the seventh grade. She got into all kinds of trouble. She dropped out of school, had a child, was involved in substance abuse. And she is now a Ph.D. When I see Loretta, I call her Dr. Delong.

She got her life turned around and is a remarkable contributor to the Indian reservation on the Turtle Mountain Reservation. And it happened because of tribal colleges, the availability and opportunity for people to go to college and have their extended family be involved in childcare and all the things that allow somebody to get up and out and do something for themselves.

There are many other stories. I simply mention Loretta because she is happy for me to do that, and I am proud of what she has done.

#### TRIBAL COLLEGES FUNDING

It just makes no sense to me to be reducing the funding for tribal colleges at a time when we are already substantially short of the support per student that exists in the rest of the country. The Tribal College Act authorizes funding of \$6,000 per full-time Indian student. It has currently funded about \$3,900. That is 45 percent below the \$7,180 spent by the non-Indian community colleges. So these colleges are already underfunded. And this is just a recommendation that we will have to change, I believe.

With respect to your point about Crown Point and United Tribes, it would not make much sense to me to put them into the rest of the tribal colleges, if the other batch is already underfunded. For almost a quarter of a century, we have provided funding for Crown Point and United Tribes, which are unique tribal technical colleges that serve, in the case of United Tribes, dozens of States' American Indian populations.

So, I mean, the suggestion that we should put them in with the rest of the tribal colleges does not make sense. What is suggested here in the budget is let us de-fund United Tribes and then let us cut the other tribal colleges. My guess is you will say: “Well, this is a matter of choice and priorities.” But would you not agree that this should be a priority, tribal college funding should and must be

a priority, and cutting them at this point, when they are so far below the support that is given to non-Indian community colleges, that that is not a fair recommendation?

Secretary NORTON. Senator, if I can point out a few things. First of all, the tribal college funding has increased by over 62 percent since 1993, while the enrollment has increased by 11 percent. So there is certainly considerably more funding than there has been in the past. The funding for tribal colleges was increased by \$3.6 million in the 2003 Appropriations Act, but our budget was formulated before that final congressional action. So it does not reflect that 2003 increase.

Senator DORGAN. Would you support that increase? If the budget were formulated now, do you think that would be included? And would you support that?

Secretary NORTON. We have a couple of different things going on here. One is the base level of funding for that. We are certainly interested in working with you all for next year on improvements needed in our funding structure, to work on that approach with you.

The other issue has been those items that have been earmarked from outside any authorization. That causes problems for us and will continue to cause problems, as I have said. It is much more difficult for us to fund something that does not have any standards, does not have a program, is simply an add-on to our other programs. There is no way of evaluating whether that is treating fairly those particular colleges in comparison with other colleges.

Senator DORGAN. Yes, but you—

Secretary NORTON. We would certainly like to see something, and we would be very happy to work with you on something that would look at those on a more across-the-board kind of basis.

Senator DORGAN. But I do not understand that. These are—for example, United Tribes Technical College is easily accredited, identified by all as a remarkable institution, visited by yourself and by the head of the Bureau of Indian Affairs. I mean, I have never heard anyone suggest this is not worth funding. So I understand your point about “Let’s make sure that we are always funding things that work,” but there has never been a question that I am aware of that this is not, both this and Crown Point are not, good educational institutions. So de-funding them just makes no sense to me.

Secretary NORTON. It is a question of trying to prioritize our funding. And, you know, we have increased funding for elementary and secondary schools. We have a \$16 million increase enacted over there. These are good programs. We do continue to support the funding of the tribal college programs. We have had to make some tough choices this year with, as you all have mentioned, the increased funding that we needed for historical accounting for Indian trust programs.

#### WILD HORSE AND BURRO PROGRAM

Senator DORGAN. But you know what? In terms of priorities, I was just looking here, we have \$31 million for the wild horse and burro management program, including Adopt-a-Horse. So \$31 mil-

lion for that and \$39 million for all the tribal colleges in America? I mean, I am not sure I understand that.

In terms of choices, I want us to make good choices and right choices. And it is not the right choice to de-fund United Tribes Technical College. And it is not the right choice to come in with a funding recommendation that is below what the tribal colleges received last year. There is bipartisan support. Senator Domenici is not here, but you know he would be more aggressive than I am even on these issues. And I know the chairman feels the same way.

So I understand your point about choices, but it is very important to make the right choices. And I think Indian education is very important.

Senator BURNS. Do you want to switch that money from the burros over to schools?

Senator DORGAN. Well, I tell you what I am going to do. I did not even know about the program until I was reading last evening. I am trying to go through. This is a big agency, as I said. You have quite a job, a lot of things. And I was not aware that the wild horse—I knew we had a wild horse and burro management. I also knew that we had an Adopt-a-Horse program. But I did not know we spent \$31 million on it. And I do not know how many horses there are, but I am going to divide the number of horses into the \$31 million to find out how much per horse we are spending. Because I used to raise horses. My dad used to raise horses. And, in fact, the program in here talking about gentling horses, I do not think anybody in Montana has ever uttered that, nor have we in North Dakota. You do not gentle horses; you break horses. I would like to know what they are spending on gentling horses, because we have some young men and women in North Dakota who will do that pretty cheaply and do it pretty well. And I suppose in Montana you have some as well.

But at any rate, my point is not to—I love horses. I have not been around burros much, so I cannot profess any love for burros. But I do want to find out how much per animal we are spending here and how we are spending—

Senator BURNS. I saw one on your jacket the other day.

Senator DORGAN. Is that right?

They call it donkey where I come from.

Senator BURNS. Oh, yes.

#### NORTHWEST AREA WATER SUPPLY PROJECT

Senator DORGAN. It would not be fair to you if I did not mention the NAWS funding. That is not the province of this subcommittee, but it is in your agency. And you will appear before another subcommittee of mine on this. But as you know, the folks in Minot, North Dakota, and northwestern North Dakota are really upset, and that is a mild way of saying it, upset about the proposal not to fund NAWS.

We have had the groundbreaking. Construction is under way. And the proposal is to stop that by, I understand, the Office of Management and Budget with a new program. It is called PART, I believe it is. Is it PART? And I am not doing this—what does PART mean?

Secretary NORTON. Program Assessment Rating Tool.

Senator DORGAN. Right. I am involved in a formal program assessment rating of the Office of Management and Budget. And I have just a preliminary estimate of that. And it really does not look good for OMB.

But no one has suggested, for example, that the NAWS program, which is, as I said, under construction, is anything other than a stellar program and the continuation of a promise that was made to the people of North Dakota as a result of being willing to host a half-a-million-acre flood that came and stayed. And then just out of the blue we discovered this de-funding because of PART, I believe, from OMB. So tell me again, how does OMB justify recommending we not fund this program?

Secretary NORTON. There are several factors that went into their rating tool. One of the things that they looked at was the difference between the number of people served per million dollars under this program compared to other Federal agency programs. They found that the Bureau of Reclamation, on average, serves 363 people per million dollars, whereas the USDA program serves almost 1,800 people. EPA serves almost 1,700 people. So that was one of their concerns as to why Interior's program was different than those other programs.

#### RURAL WATER PROGRAM LEGISLATIVE PROPOSAL

We are moving forward to address some of the problems that were identified in terms of lack of goals and consistency in the program. We do have underway a legislative proposal being developed that would establish a reclamation rural water program with adequate controls and clear guidelines for project development.

It would provide a two-pronged approach that involves pursuing new general authority for reviewing, planning, prioritization, and construction of rural water projects, combined with administrative measures that would improve the program. It would eliminate the piecemeal approach that we currently experience. As we have discussed previously, there is no overarching rural water program that the Bureau of Reclamation has through which we have standardized funding or standardized approaches. That was one of OMB's concerns, that we try to put that in place instead of doing piecemeal projects.

This legislative proposal would provide that type of overarching program. It would allow the Department and the administration to set priorities and control the process and would thereby limit the problems that were identified by OMB. It would also involve other interested parties in the planning, design, and construction of rural water supply projects.

Although this is still in the formative stages, we will be happy to work with you on further developing that overarching program.

Senator DORGAN. Well, let me understand this because when a project is underway or under construction, and the groundbreaking has taken place and, therefore, we have a project under construction, it seems to me you stop that project only if you believe that project is not worthy. Is the administration suggesting that the NAWS project is not a worthy project?

Secretary NORTON. The evaluation that was done was based on identification of goals and seeing whether we were meeting the

goals of the project. It is the same kind of evaluation that is taking place on Federal programs across the board. Based on that approach, OMB found that this particular program fared more poorly than other programs. They made the choice to put the funding into the programs that did better in this kind of an approach.

Senator DORGAN. But the distinction here is you are using the word "program," not project. The OMB described this program as not meeting certain goals. It made no such judgment about this project. Is that not correct?

Secretary NORTON. This was based on, as we said, an overall assessment of the effectiveness of this rural water project or several rural water projects. It combines with an evaluation of those in comparison to other departments' similar programs.

Senator DORGAN. Has Governor Hoven talked to you about this issue?

Secretary NORTON. Yes, he has.

Senator DORGAN. It is interesting to me, if you look at the map, about where these cuts came. I will talk to you more about that in the other subcommittee. But I am still not understanding. I guess you are saying something to me that is different now than what you said when you testified before the Energy Committee. I think you are saying—

Secretary NORTON. I am saying we have made progress in getting some of these problems resolved.

Senator DORGAN. At which point would you then recommend continuing funding of a project that is under construction?

Secretary NORTON. Once we get this in place, we would be focusing on fiscal year 2005 and working with you on getting legislation put in place and then work on funding things on that legislation.

Senator DORGAN. So the administration's recommendation is that even if this project is finally determined to be worthy, that we should delay it for a year?

#### PROGRAM ASSESSMENT RATING

Secretary NORTON. The findings of the program assessment rating are that we need to look at those programs that are working, that are providing what they are supposed to provide, and to fund the things that are working. And this, by having come out low on that rating, by not having clearly-defined goals, means that we are going forward with something that is not coming out as high on providing value to the taxpayers.

Senator DORGAN. But let me just—Mr. Chairman, I do not know what your time situation is, but I do want to just finish this point.

You know, Montana and North Dakota did not rush to Washington to ask if we could host some floods in reservoirs and so on. I mean, we did not beg Washington to have a Rhode Island-sized flood come in North Dakota and stay there forever. Washington asked us to be the host to a permanent flood of half a million acres. So they built the dam, and we have a permanent flood.

They said: "In exchange for that, we will give you some benefits." And, I mean, we would be crazy to say: "Well, bring this flood. And by the way, it will be no cost. We will just lose half a million acres of land," good bottom land, by the way.

But the Federal Government said: "No, no. We will give you some benefits." And we said: "All right. That is a fair trade," except we got the flood but never quite got all the benefits.

The NAWS program, the Northwest Area Water Supply, program is part of that. And for anybody to suggest to me that because there are fewer people in North Dakota that it somehow does not quite measure up, I mean, I think that is nuts. If that is what OMB is saying, I am sorry, tell them to go back and read a little history. We know we do not have as many people as New York City does, but we know what the promise was. And the people in North Dakota deserve good quality water.

Here, incidently, is a sample of the water. And some of it looks like coffee. This is actually a little better looking. But this is the kind of water we are trying to replace with the NAWS program. And we do not want to wait another year, and we are not going to wait another year. And I think what OMB has done to us is a disaster. I mean, there is no excuse for what the Office of Management and Budget has done. We want this funded. We want it funded now. And we do not want to wait a year. And I do not want somebody telling me they are going to change the rules after we have already begun construction and after the promise has been made.

So you and I will have other discussions about it. But you are probably just required to defend OMB and defend this budget. But I hope you know that what has happened in this budget, at least with respect to this project, is fundamentally wrong. And it is unfair to the people of North Dakota, who have been told this project is going to help them get a good supply of quality water.

One additional point—do you want to respond to that?

Secretary NORTON. I think we have had a number of conversations about this. So—

Senator DORGAN. And we will talk again in the other subcommittee.

#### OVERHEAD

But one other point: I am very interested in pursuing with a range of agencies the issue of how much in each agency is represented by "overhead." And that comes from a 1993 Presidential directive that asks all Federal agencies to determine what their overhead was. Almost no Federal agencies have complied with that. And I have been involved with some others in trying to make sure that we do force Federal agencies to comply.

The reason is simple. If we have to tighten our belt, and I believe we do, I believe we are going to have to cut some Federal spending. If we do that, I would prefer that we begin to cut where businesses would cut. The first thing they would cut is some overhead, some travel, some administrative burden. But the fact is we cannot get at that in any of the Federal agencies because they do not determine what their overhead is.

I would like, at least in this subcommittee, to ask you to work with us to try to, for this agency, comply with the Federal direction of 1993, which has not been complied with. And I am not blaming your agency, because no agency has complied with it. But I hope that we can work together to understand what is the overhead bur-

den, what is the administrative overhead burden, in these agencies, your agency and the various component parts of your agency.

I think it is important because, Mr. Chairman, as we begin taking a look at funding levels, I would much prefer that we fund critically needed programs such as Indian colleges, rather than fund overhead that could well be cut in lean or in tough times.

Secretary NORTON. Senator, if I could say, that is a very good question to ask. And it is something that has, frankly, been frustrating for us as well. When you come in and say, "Okay, here is the box of a program. Can't we look within that box and figure out what is being spent that really does not need to be spent?" The way our accounting is currently operating throughout most of the Department, we really cannot see how much is actually spent on particular types of things.

#### ACTIVITY BASED COSTING

We are now moving towards something called activity-based accounting or activity-based costing that will let us understand that. And it will require each of the bureaus to say not just "We budgeted for this program and we spent it all," but "Here is what we spent on travel. Here is what we spent on printing. Here is what we spent on litigation," all the different categories of expenditures.

That is something that is currently in place for the Bureau of Land Management, and we are getting it into place for our other bureaus. I think that will be very helpful for all of us in trying to better manage.

We have also just implemented an across-the-board cut in travel expenditures. So we are addressing some of those things.

Senator DORGAN. All right. Well, Madame Secretary, I am not perpetually crabby. It is just that I feel very strongly about tribal colleges, UTTC, about NAWS and some other issues. And I look forward to working with you on these issues. And can we work together to find out what we spend per horse and per mule, just for fun?

Senator BURNS. You are not going to like that figure.

Senator DORGAN. Actually more than just for fun. I think we ought to know that, just as policymakers.

Secretary NORTON. We will provide that information for you.

[The information follows:]

#### WILD HORSE AND BURRO PROGRAM

For 2004, the BLM budget proposes \$29.4 million to manage a wild horse and burro population estimated at 57,000. This would represent a cost-per-animal average of \$516 per year. This total population estimate includes 38,000 on the open range, and 19,000 in what BLM refers to as the "National Pipeline", including 10,155 in sanctuaries, 4,656 in maintenance facilities, and 4,303 in preparation facilities. The budget supports such activities as monitoring populations on the open range, gathers, holding costs, adoption activities, and compliance checks.

Senator BURNS. You are not going to like that horse figure. I will tell you that. We have been involved in that over in Montana. As you know, some of those wild horses and burros come from that part of the country. And I will tell you, it is something. I have some special projects in Montana.

## POWDER RIVER BASIN EIS

We have an 11:15 conference coming up, Madame Secretary. And I want to make that, I think all of us are involved in this budget thing. Though, there are a couple of questions I want to ask. We have been following the multi-year effort by the BLM on the environmental impact statement in the Powder River Basin. This has to do with coal bed methane. We want the EIS to be completed in a comprehensive and responsible way. Could you update us on the status of that EIS? And when can we expect any kind of a record of decision?

Secretary NORTON. Mr. Chairman, it is my understanding that that is expected to be completed later this month.

Senator BURNS. I assume you have all the resources that you need to complete this and to get it off the board?

Secretary NORTON. We have requested increases in this 2004 budget proposal for taking care of that, including inspection and monitoring.

## STEWARDSHIP CONTRACTING

Senator BURNS. Let me also ask you about standardizing the Forest Service and Department of the Interior stewardship programs. Will you be using the same book in your procedures, and everything else in the stewardship contracting? Tell me how that is coming along.

Secretary NORTON. We have had a great working relationship with the Forest Service throughout our fire program. It is my understanding that that is nearly completed to get the program that the Forest Service has already been operating tuned so that it can also accommodate our Department of the Interior needs.

Senator BURNS. Will you be offering some stewardship contracts this year?

Secretary NORTON. We certainly expect to be doing that very quickly. In fact, can I let Lynn Scarlett respond to that? She has been involved very directly in our fire management program.

Senator BURNS. Please.

Ms. SCARLETT. Yes, Mr. Chairman. We are working with the Forest Service and all our land management agencies to develop the operating guidelines and principles for the stewardship contract. We expect that to be completed this month. That will give us the basis from which to move forward on contracts right away. So yes, it is very much in our plans.

Senator BURNS. In the areas where you have large concentrations of forest lands, rather than grazing lands, do you have any kind of assessment of what kind of fire season you are looking at? And conditions, how are you looking in that respect? Give Congress an idea of some of the challenges that we may have to meet later on this summer.

Ms. SCARLETT. Well, I have copies of the recent drought maps. We get these every week. And I feel very optimistic, because the drought map in the last couple of weeks has improved dramatically over where it was in early March. Unfortunately, in preparation for this hearing, I looked at the drought map for this year in comparison with the drought map for last year. We are generally much

worse across the western United States than we were last year. And especially in your area of Montana, we see a tremendous drought that is now a multi-year drought. So we are very concerned.

Senator BURNS. We are in a different weather pattern up there. We are hoping that June will bring the normal—where we have a little more snowpack than we had a year ago, I can tell you that. Our rains and moisture have been a little bit better this spring. We just hold our breath and make sure our Junes turn out the way traditional Junes do, and we will be okay.

#### ZORTMAN/LANDUSKY MINE RECLAMATION

In another area, I know you are aware of the Zortman/Landusky Mine reclamation in north-central Montana. The State of Montana holds approximately \$60 million in bond for reclamation. But the BLM and State DEQ joint SEIS recommends reclamation exceeding this bond of approximately \$33 million over that bond number. \$11 million is still needed to supplement a trust, ensuring the water treatment facilities. It can be operated in perpetuity.

It is my understanding that the Montana BLM office identified this project as a top priority and requested increased funding in its fiscal year 2003 and fiscal year 2004 budget to address these reclamation needs. Additionally, this committee directed the Bureau to consider the project in the formulation of the 2004 and 2005 budget requests. Why did the Department not include this request in its final proposal in the 2004 budget? And can you identify funding for your current budget request to support these activities? In other words, are you going to put some money into this?

Secretary NORTON. Let me defer to John Trezise. But I think we will have to get the detailed answer for you in writing.

Senator DORGAN. Mr. Chairman, before he answers, I have to run off to the Energy Committee markup.

Senator BURNS. Okay.

Senator DORGAN. So let me thank the Secretary and the Secretary's staff for being here.

Secretary NORTON. Thank you.

Senator BURNS. Thank you. Thank you, Senator Dorgan. Appreciate it. You can vote for me.

Senator DORGAN. I will do that. Careful what you ask for.

Senator BURNS. All right.

Mr. TREZISE. Senator Burns, this is a very difficult problem and obviously one where a great deal of work is needed to restore the Zortman/Landusky site and address the water quality problems associated with the site. Work is currently ongoing, of course, using the bond that was posted by the mining company. Unfortunately, the bond is not adequate to cover all costs, especially the long-term costs. The water monitoring costs we will face for many decades.

As you say, the Montana office did recommend significant funding in the 2003 and 2004 budgets for this project. We at the Department and the Bureau headquarters are working with the Montana State office to look at all the options about how we can address this issue, both in the short term and, more importantly, in the long term, which is where the bond money is really going to be a problem. I think it would be useful for the Bureau to come

up and talk to you later in the spring about the progress they have made in looking at options.

Senator BURNS. Well, we look forward to that visit. Also, I was talking to the tribal leaders at Fort Belknap, and they want to have a meeting with you. They have not been able to secure one, Madame Secretary. I would suggest you sit down with the tribal leaders at Fort Belknap, go through some of the concerns they have. Because they are in that drainage area off of Zortman, not only on water, but also on land issues. I would like for you to meet with them, if you possibly could.

Secretary NORTON. I will try to make sure that somebody who is familiar with the issues and can actually perhaps address them better than I can is able to meet with them.

Senator BURNS. I would suggest you sit in on the meeting, but take your experts with you. That is the way we do things, just a little hint.

Okay. We have more questions for you, and I am going to put those in letter form. We would like to have a response.

We are looking at the overall funding. And, of course, we do not know what is going to finally come out of the budget. But we hope to have a budget. That is what that conference is about at 11:15 today. We are going to talk about Going to the Sun Road in Glacier Park, and also some Forest Service, and stuff with fuel loads on our forest floors.

There is a reauthorization of the SMCRA activities, Surface Mining Control and Reclamation Act. And, of course, surface mining and State regulatory grants. We will put these in question form. We will need your response before we finally go to final markup on the Interior side of this bill.

Secretary NORTON. We will be happy to provide you that information.

#### ADDITIONAL COMMITTEE QUESTIONS

Senator BURNS. Okay. We appreciate you coming this morning. And we will leave the record open for questions, from other committee members.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR CONRAD BURNS

##### SMCRA REAUTHORIZATION

*Question.* The authority of OSM to collect the abandoned mine reclamation fee established under the Surface Mining Control and Reclamation Act (SMCRA) expires on September 30, 2004. Many states out West have paid a great deal in these fees which go into the Abandoned Mine Reclamation fund but have not received back anywhere near what we put in. For example, Montana has paid in over \$266 million but has only gotten back about \$100 million.

What is the Administration's position with respect to extending the authority to collect this fee?

*Answer.* The Administration is seeking to extend fee collections beyond September 30, 2004. We think that additional funds are necessary to address the many remaining health and safety problems threatening our citizens who live and recreate in coal country. OSM hopes to craft a proposal that will concentrate funding on the highest priority abandoned mine land problems affecting the largest number of people. We have been working with our stakeholders (the States and Indian tribes, as

well as environmental groups, industry and members of Congress) to develop an extension proposal.

*Question.* If you propose to extend SMCRA, does the Administration support keeping the fee the same or will you propose increasing it?

*Answer.* The President's Budget assumed the extension of the fee at its current rate. However, we continue to refine the proposal.

*Question.* Will there be anything in the proposal to deal with states that have paid in a great deal but have not gotten much back?

*Answer.* The Administration is reviewing several options for paying out AML funds to the States. States which have certified the completion of coal mine land reclamation, like Montana, are of particular concern to us. Our records show that as of September 30, 2002, over \$275 million in AML fees has been collected from mining operators for coal mined in Montana. Under SMCRA, 50 percent of those collections, or over \$137 million, are State Share funds targeted for projects in Montana, of which \$95 million has been distributed to the State of Montana for grants. The remaining State share balance of \$42.5 million is a concern, and we hope to find ways to provide the payment of such funds to Montana and to the other certified States.

*Question.* When will the Administration send its proposal to Congress?

*Answer.* We're working diligently to develop recommendations for Congress. We hope to have something ready by mid-summer.

#### STATE REGULATORY GRANTS

*Question.* As you know, the Office of Surface Mining provides grants to states on a 50/50 cost share basis to regulate mining in their states. This is a good deal for the Federal government, since if the states did not regulate surface mining the Federal government would be required to do it and pay 100 percent of these costs. I see that the budget request for this activity is \$57.6 million but that the states asked for \$64.4 million.

If we don't fund the full amount asked for by the states will it lead to any serious problems such as legal challenges to state programs based on their inability to carry out their regulatory requirements?

*Answer.* The amount requested in the President's Budget is a slight increase from fiscal year 2003, and OSM believes that the requested total will be sufficient to assist the States/Tribes. OSM is concerned about the States and Tribes having adequate funding to meet their requirements and will work with each individual State and Tribe to ensure that their program needs are met. OSM will continue to closely monitor the State programs, and State and Tribal funding requests and expenditures, to identify and resolve any concerns.

*Question.* Do you expect that any states will turn the regulatory program back over to the Federal government due to lack of funding?

*Answer.* OSM is not currently aware of any specific State or Tribe seriously considering giving up regulatory primacy due to lack of funding. We agree that it is possible that if funding were inadequate, States might pursue this option. As previously mentioned, OSM will continue to work with each State and Tribe to ensure that their regulatory program needs are met.

Following the release of the NRC report, the agencies agreed to form a standing technical team to address issues of mutual concern, particularly those related to coal slurry impoundments. The group will focus on NRC report recommendations related to mapping, engineering and design standards, and monitoring requirements. Additionally, the agencies have discussed the other recommendations of the NRC committee and have identified priorities for future work. The standing joint OSM-MSHA technical committee will begin addressing particular actions needed to implement the NRC recommendations at its July 2002 meeting. As these efforts are ongoing, neither OSM nor MSHA have yet developed any regulatory proposals or guidelines based on the NRC report. However, as the joint team's work progresses, one or both of the agencies may develop additional requirements for impoundments.

At the same time, OSM is committed to working with the states and others on these issues as well. OSM and MSHA plan to host a meeting between representatives of the two agencies and the states to discuss their role in developing standards and approaches to implement any new requirements.

Not only is OSM working with MSHA, the states and other federal entities, OSM is working on its own to address concerns surrounding the safety of coal waste impoundments. After the Martin County Coal Corporation impoundment failure, OSM developed and implemented a regional plan designed to minimize the potential for future impoundment breakthroughs into underground mines by:

- evaluating the factors contributing to the Martin County impoundment breakthrough,
- developing criteria for evaluating existing high-risk impoundments near underground mines,
- evaluating state program requirements and program implementation with regard to impoundments, and
- ensuring effective state evaluation of existing high-risk impoundments through oversight and technical assistance.

As part of its oversight responsibilities, OSM has made impoundments a priority by initiating ongoing evaluations of state programs to ensure that they are adequate and that they are effectively implemented. A part of this effort includes a determination of whether the states are effectively evaluating existing high-risk impoundments, identifying problems, and adequately addressing those problems.

In providing technical assistance on this issue, OSM has made resources available to the states to assist them in their identifying and evaluating existing impoundments that are of high concern. In addition, using its impoundment engineering expertise, and with input from states and MSHA, OSM has developed a technical guidance document with established criteria that can be used in re-evaluating existing high-risk impoundments over or adjacent to underground mines. OSMS provided this document to the states in July 2001.

Finally, OSM has worked to facilitate communication between State and Federal agencies involved in regulating coal slurry impoundments and related facilities. Through enhanced communication, coordination and cooperation, OSM believes that many of the issues related to coal waste impoundments can be resolved.

#### MMS ROYALTY-IN-KIND

*Question.* I see that MMS has greatly expanded its use of the Royalty-In-Kind authority. Currently, over 80 percent of the oil production from the Gulf of Mexico is taken “in kind” in order to fill up the Strategic Petroleum Reserve (SPR).

How long will it take for MMS to fill up the SPR?

*Answer.* The SPR Fill Initiative is a joint project of the Department of Energy (DOE) and the Department of the Interior (DOI) to fill the remaining capacity of the SPR utilizing RIK oil from Federal leases in the Gulf of Mexico. For the majority of RIK oil committed to the SPR Initiative, the DOI is responsible for supply side logistics of taking the oil RIK at offshore leases and accomplishing delivery of the oil to the account of the DOE at onshore market centers. The DOE is responsible for taking onshore custody of the RIK oil and, through exchange contracts, accomplishing the actual delivery and physical fill at the SPR sites. Approximately 10 percent of RIK production is directly transported from offshore leases to the DOE at an SPR site.

At current RIK delivery rates, the MMS expects to complete the RIK oil supply side deliveries to the DOE’s account by the end of fiscal year 2005. However, the completion of supply side deliveries could be delayed somewhat due to interruptions of production caused by hurricanes and pipeline operation issues or by declines in physical production at the leases.

*Question.* After SPR is filled, does the agency plan to continue to take the bulk of its Gulf of Mexico royalty production “in kind” rather than “in value?”

*Answer.* The MMS has adopted an asset management strategy in administering mineral revenues. A key aspect of this strategy is the strategic utilization of two asset management options—royalty-in-value or RIK—for the purpose of increasing benefits to the Government. One of the important determinants in making the decision on which option to utilize is the opportunity to increase revenues to the Treasury. Because the oil markets play an important role in the economics of the decision making process, it is difficult to forecast how much of the Gulf of Mexico oil royalties will be taken in kind in fiscal year 2006. However, the MMS will be well positioned to continue to have a significant RIK program in the Gulf of Mexico that includes small refiners and competitive sales.

*Question.* Since taking the royalty “in kind” eliminates, for the most part, questions over how to value the oil, does the agency believe that expanding the RIK program makes sense over the long term?

*Answer.* The results of the current RIK program to fill SPR have been positive from the standpoint of taking oil in kind. However, we have not traded this oil for value on the open market. Therefore, we don’t know if we can increase revenues to the Treasury. We continue to evaluate the RIK efforts; if the results continue to be positive, we believe there is a good future for the RIK program.

## OIA/STATUS OF COMPACT NEGOTIATIONS

*Question.* The current Compact of Free Association between the United States and the Marshall Islands and the Federated States of Micronesia expires at the end of this fiscal year. Negotiations have been going on for some time regarding a new Compact between the parties. Once these negotiations are concluded Congress will need to pass legislation to put the new Compact into effect. I am concerned that time is running out to get this legislation through the Congress by the end of the fiscal year.

When will parties reach agreement on a legislative package that will be sent to the Congress?

*Answer.* The State Department has generally reached agreement with the freely associated states and, in fact, a signing ceremony was concluded with the Republic of the Marshall Islands. The package has been transmitted to Congress.

*Question.* Does the Administration have a plan if there is further delay and the new Compact can't be enacted by Congress before the end of the fiscal year?

*Answer.* While it is not considered a good alternative, the Administration is prepared to deal with such an eventuality. There is sufficient budget authority in the President's fiscal year 2004 proposal to work with the Congress on various options. In developing these options, it is extremely important to the Administration that the essence of the new agreement, including greater accountability and more targeted use of U.S. assistance, be incorporated. It is also important to the Administration that options deal with the problem of impacts to U.S. insular areas and, finally, that any considered options not be viewed as a disincentive to the quickest possible implementation of the new agreements.

## FWS/CONSULTATION ON FUELS REDUCTION PROJECTS

*Question.* A critical part of the National Fire Plan is the effort to reduce hazardous fuels on our forests and rangelands. Many of these projects require consultation with the Fish and Wildlife Service under the Endangered Species Act before they can be implemented. In order to ensure adequate resources to accomplish this work, the Committee gave the Forest Service and other Interior Department agencies the ability to transfer fire funds to the Fish and Wildlife Service for consultations on these projects.

How is this effort proceeding?

*Answer.* The Service developed a cooperative agreement with the Bureau of Land Management shortly after passage of the fiscal year 2001 appropriations bill to provide reimbursement for any consultation support provided to DOI bureaus in support of the National Fire Plan. A similar agreement was executed with the Forest Service shortly after passage of Public Law 107-13. Beginning in fiscal year 2001, the Fish and Wildlife Service recruited approximately 65 temporary/term employees to support an anticipated consultation workload increase associated with the National Fire Plan. The highest priority work for these new employees is to provide ESA consultation support to the Forest Service and DOI fire management agencies.

*Question.* Has the Fish and Wildlife Service put in place adequate resources to ensure that fuels reduction projects receive their consultations in a timely manner?

*Answer.* Yes. The biologists hired in fiscal year 2001 and 2002 to provide consultation services to the fire management agencies have been sufficient to respond to the consultation workload generated by projects supporting the National Fire Plan. We are not aware of any significant delays to National Fire Plan projects that were caused by section 7 consultations; however, some non-National Fire Plan projects may have been delayed as a result of the Service diverting consultation resources to National Fire Plan projects. On June 5, 2003, we proposed Joint Counterpart Endangered Species Act Section 7 Consultation Regulations to help streamline the National Fire Plan consultation process and increase the Service's capability to help focus on these non-National Fire Plan actions (68 Federal Register 33805).

*Question.* How much money has been transferred to the agency for this work?

*Answer.* To date, the USFS has made \$7,500,000 available to the Service, and the BLM, \$8,000,000.

## GOING-TO-THE-SUN ROAD

*Question.* The fiscal year 2003 bill included additional funds for staff and equipment at Glacier National Park. These funds will hopefully enable the Park to open the Going-to-the-Sun Road as quickly and as safely as possible each spring. Can you tell me whether these additional resources will be in place in time to have an impact on this year's road opening? Are funds included in the fiscal year 2004 budget to continue these enhanced operations next year?

Answer. Glacier National Park staff has already begun seven-day-a-week operations on the west side of the Going-to-the-Sun Road. East side seven-day-a-week operations began May 10, 2003. In terms of equipment, Glacier NP has already contracted for an excavator to be used for snow removal this year. In addition, the park is leasing two additional pieces of snow removal equipment for this season. As part of the initiative to assure employee and visitor safety, the park will be procuring a GIS location system with funds received from Congress this fiscal year. Finally, this effort at Glacier NP is part of an overall, ongoing strategy to better manage the opening of the Going-to-the-Sun Road and the above-stated efforts will continue into fiscal year 2004 and beyond.

Prior to the enactment of the fiscal year 2003 bill, the fiscal year 2004 request identified a \$500,000 operating increase for the Spring opening of Going-to-the-Sun Road. This recurring funding was included within the additional park funding provided by Congress for fiscal year 2003 and continues in fiscal year 2004 and beyond.

*Question.* I know the Administration's budget request projects an increase for the park roads program to \$300 million in fiscal year 2004 as part of the reauthorization of TEA-21. Is it your understanding that this amount will be sufficient to complete the Going-to-the-Sun Road rehabilitation in a timely manner?

Answer. The President's Budget for fiscal year 2004 articulated a Park Roads and Parkways Program (PRPP) funding level for National Park Service (NPS) of \$300 million in fiscal year 2004, \$310 million in fiscal year 2005, and \$320 million annually in fiscal year 2006–2009. This would nearly double current funding levels of \$165 million annually. Part of President Bush's "Park Legacy Project" is to address the NPS backlog of maintenance needs across the Service. A significant portion of the backlog is in roads.

The NPS seeks to continue the progress made under the Transportation Equity Act for the 21st Century (TEA-21) to restore, build, and reshape its transportation system, by giving priority and focus to the following categories:

- Category I (\$270–\$310 million/annually).*—Restores the condition of the existing roads to "good," system wide. Supports President Bush's commitment to address the NPS deferred maintenance backlog. Deploys sound asset management strategies to optimize life cycle cost.
- Category II (\$3–\$10 million/annually).*—Builds the next logical phase of the Congressionally mandated parkways. Continues construction of the Foothills Parkway "missing link" and begins the construction of multi-use trails around three urban areas along the Natchez Trace Parkway.
- Category III (\$20 million/annually).*—Continues to plan and build alternative transportation systems. Deploys integrated visitor transportation systems using a combination of technologies, facilities, and community transport management strategies.

Historically, these categories are administrative in nature only and are not legislatively directed to allow maximum flexibility to move dollars across categories to facilitate high annual obligation rates and to meet emergency and/or critical Service-wide priorities.

Rebuilding the Going-to-the-Sun Highway is a complex multi-million and multi year-construction event with an identified need of some \$150–\$180 million. Much of this need goes beyond bridge and pavement condition. Latest studies reflect an ambitious schedule that would take approximately \$18–\$25 million annually over some eight years.

Category I funds are distributed by formula based on miles, condition, average daily traffic and traffic accidents. The logic is to deploy sound asset management strategies to spend the dollars at the right time and at the right place to get the best return on available funds. The Service has many parks with large road maintenance needs. The Administration's proposed \$270–\$310 million annually means the Intermountain Region will receive some \$60–\$70 million annually, an increase of \$30 to \$35 million over the current level. Accordingly, the NPS is challenged with making headway with such large park needs as the Going-to-the-Sun Highway rehabilitation while balancing the mix of projects across the Service and Intermountain Region so as to not compromise President Bush's commitment to address the deferred maintenance backlog and ensure the system is in "good" condition system wide.

The President's Budget would provide significant funding for the Going-to-the-Sun Road at a rate about as fast as could be efficiently obligated. Even at this accelerated rate, however, such an extensive project would be in all probability pushed past the end of the next Highway Trust Fund Reauthorization (fiscal year 2009).

*Question.* Will the Administration's legislative proposal for TEA-21 reauthorization include language that specifically addresses the needs of large projects like the Going-to-the-Sun Road?

Answer. Currently, the Administration's legislative proposal for Transportation Equity Act for the 21st Century (TEA-21) reauthorization has not been completed and formally submitted to Congress. We understand the package will be forwarded in the middle of May 2003.

The Administration's legislative proposal does not include specific language for large projects. The funding for the Park Roads and Parkways Program (PRPP) has historically not been legislatively identified for a specific area or category to allow flexibility across categories to facilitate high annual obligation rates and meet emergency and/or critical Service-wide priorities. The PRPP has been guided by program goals such as keeping the system from further deteriorating, completing four of the six Congressionally mandated parkways and completing pilot parks to explore and implement alternative transportation systems. The NPS has proposed to continue to focus on these three areas with the dollars made available. Given the large increases proposed, the PRPP will be able to address the needs of large projects, like the Going-to-the-Sun Road, without requiring specific language.

#### FORT PECK RESERVATION/DRY PRAIRIE

*Question.* It is my understanding that the Office of Management and Budget has completed its review of the engineering report for the Ft. Peck/Dry Prairie water project in Montana.

How soon will the engineering report be transmitted to Congress?

Answer. The Final Engineering Report was transmitted to Congress in a letter signed by the Assistant Secretary for Water and Science on May 6, 2003.

*Question.* Will the Department be in a position to obligate funds this year? If not, why not?

Answer. The likelihood is high that funds can be obligated this fiscal year. Contracts have been negotiated for obligation of funds and work plans are being developed by Fort Peck Tribe and by Dry Prairie. Funds may then be obligated for non-construction activities, a process that may take about a month to complete. Funds for construction activities may be obligated in August/September of 2003, which is after the Final Engineering report sits for a mandatory 90 days from the time it was transmittal to the Congress (May 6, 2003).

*Question.* Can you tell me why no funds were requested for this project in the fiscal year 2004 budget request?

Answer. It has been Reclamation's position, as articulated by the Commissioner of Reclamation on this and other rural water projects, that, given limited funding, Reclamation does not support starting construction of new projects to the detriment of projects already under construction.

#### PRESIDENT'S MANAGEMENT AGENDA

*Question.* Pursuant to the President's Management Agenda, the Department has been studying whether or not it makes sense to outsource certain Federal jobs.

Can you tell us where you are in the process?

Answer. DOI has completed review/study of 1,079 FTE as of mid-April 2003. We are in the process of conducting seven full A-76 competitive sourcing cost comparisons. DOI is on track to complete competitive sourcing studies on 15 percent (3,041) of the FTE listed in their fiscal year 2000 FAIR Act Inventory by the end of 2003.

*Question.* How many positions has the Department decided to study?

Answer. DOI has committed to a cumulative "soft target" of 25 percent (5,068) by the end of fiscal year 2004.

*Question.* When will these studies be completed, and when will decisions be made about whether to outsource?

Answer. The study results of the remaining 1962 for fiscal year 2003 will be completed by December 2003. The decision to remain in-house or contract with a private sector source will also be made around December 2003. The studies for fiscal year 2004 (an additional 2,027 for a total of 5,068 FTE) will begin October 2003 and the results will be announced in first quarter fiscal year 2005 (October/November 2004).

*Question.* What has been the cost of the studies throughout the Department?

Answer. As of June, 2003, the Department's estimate on the cost of studies and other related costs for fiscal year 2003 was \$3.3 million. This estimate includes the following:

BLM—\$886,000 in study costs as of June 2003

OSM—zero as all studies were performed in house

NPS—\$1.6 million anticipated costs for 2003 as reflected in a July 11, 2003 re-programming

BIA—\$400,000 anticipated costs for 2003 (projected in June 2003)

GS—\$160,000 in study costs as of June 2003

MMS—\$74,000 in study costs as of June 2003  
 FWS—\$200,000 anticipated costs for 2003 (projected in June 2003)  
 For internal purposes these amounts were reported to appropriations staff on June 6, 2003.

BUREAU OF LAND MANAGEMENT—CBM EIS FOR MONTANA

*Question.* I have been following the BLM's multi-year effort in the preparation of the Environmental Impact Statement for the Powder River Region of Montana with a great deal of anticipation and interest. We have worked with the Department to secure additional funding above past budget request figures to ensure that adequate environmental studies would be completed and that the EIS would be done in as responsible a manner as possible.

Could you update us on the status of the EIS, and when can we expect a record of decision?

*Answer.* The Record of Decision (ROD) for the Final Statewide Oil and Gas EIS and Proposed Amendment to the Powder River and Billings Resource Management Plans was signed on April 30, 2003.

Prior to signing the ROD, the Director of BLM resolved all protests, including 21 protest letters that addressed issues on the Montana side, 76 protest letters that addressed issues on the Wyoming side, and 98 letters that addressed issues in both states.

In order to resolve the protests, the BLM needed to determine the validity of each protest filed, prepare a written decision, and set forth the reasons for the decision. The decisions were sent to the protesting parties by certified mail in April 2003.

In addition, 400 faxes and 18,000 emails were received during the protest period. Since letters of protest were required to be sent to the Bureau Director, faxes and emails were not valid protests and did not require individual responses.

*Question.* I assume we have completed the need for resource planning dollars for this specific EIS. Does the current fiscal year 2004 budget submission include adequate funding in the oil and gas base program to support development in the Powder River Region of Montana in fiscal year 2004?

*Answer.* The proposed funding for fiscal year 2004 will be adequate based on the number of Applications for Permit to Drill (APD) we have received so far in 2003 and expect to receive by the end of the fiscal year. The 2004 budget request also factored in the level of demand for 2004 that was projected at the time the budget was formulated. If actual demand in 2004 deviates from this projection, BLM will consider any necessary budgetary adjustments to ensure appropriate support for development of Coalbed Natural Gas in the Powder River Basin of Montana.

BUREAU OF LAND MANAGEMENT—MONTANA GAS PERMITTING

*Question.* Madam Secretary, in the face of natural gas prices skyrocketing once again to record levels, and questionable domestic energy security, I applaud your leadership to increase responsible and reasonable domestic production.

It is my understanding that the funding increases for energy permitting that your Department has proposed—and this Committee has supplemented—are resulting in real results on the ground. I am told the Department is planning on announcing a substantial number of new gas leases being permitted in eastern Montana as early as this week.

Could you please update us on the status of this increased permitting activity and give us a sense of whether other regions of the country are seeing similar results?

*Answer.* In Montana, BLM expects to process 24 percent more APDs than in 2002. BLM has already processed 68 percent of the 279 APDs expected in 2003. The Miles City field office has in the last month received 99 APDs for coalbed natural gas.

The following table shows the APDs processed in fiscal year 2002 and so far in fiscal year 2003 relative to the fiscal year 2003 goal. It also gives an estimate of the number of APDs to be processed in fiscal year 2004 in Montana and other states with APD activity. This table reflects total oil and gas APDs, not just those associated with Coalbed Natural Gas.

APPLICATIONS FOR PERMITS TO DRILL

|                  | Fiscal years   |                                   |                 |                   |
|------------------|----------------|-----------------------------------|-----------------|-------------------|
|                  | 2002<br>actual | 2003 actual<br>(as of<br>6/30/03) | 2003<br>planned | 2004<br>estimated |
| California ..... | 149            | 66                                | 245             | 260               |

## APPLICATIONS FOR PERMITS TO DRILL—Continued

|                    | Fiscal years   |                                   |                 |                   |
|--------------------|----------------|-----------------------------------|-----------------|-------------------|
|                    | 2002<br>actual | 2003 actual<br>(as of<br>6/30/03) | 2003<br>planned | 2004<br>estimated |
| Colorado .....     | 264            | 179                               | 240             | 275               |
| Montana .....      | 225            | 189                               | 279             | 920               |
| New Mexico .....   | 1,134          | 912                               | 1,185           | 1,335             |
| Utah .....         | 512            | 294                               | 450             | 538               |
| Wyoming .....      | 1,787          | 1,043                             | 2,750           | 3,400             |
| Other states ..... | 564            | 46                                | 351             | 272               |
| Total .....        | 4,635          | 2,729                             | 5,500           | 7,000             |

*Question.* I am told that the Bureau of Land Management is interested in addressing the concern that some offices are seemingly much more inefficient than other offices in addressing the backlog of energy applications.

Can you speak to the Bureau's work to explore methods to increase efficiency and predictability in the permitting process?

*Answer.* BLM holds its field managers accountable for annual workload targets and timeliness of responses to authorization requests from industry. BLM is using cost management data along with the 2002 customer survey results to pinpoint where APD processing delays are occurring and to identify how to prevent any further delays. In addition, the BLM is taking several steps which will improve the APD processing time frames. On April 14, 2003 the BLM Washington Office issued 5 Instruction Memorandums (IMs) on APD process improvement. These IMs cover Conditions of Approval, Cultural Resources, revision of Onshore Oil and Gas Order No.1 which specify minimum standards of performance for oil and gas operators, Comprehensive Strategies, and revision of the Oil and Gas "Gold Book", a reference book used by oil and gas operators to comply with surface use standards for oil and gas operations.

The IM on Conditions of Approval (IM 2003-146) asked the Field Offices to supply the Washington Office with copies of conditions of approval currently being used. The Washington Office will then develop standard conditions of approval and guidance on how to develop reasonable and enforceable conditions of approval. This will help oil and gas operators by eliminating inconsistencies across the Bureau.

The IM on Cultural Resources (IM 2003-147) identifies some "best practices" being used in some Field Offices concerning Cultural Resources. All Field Offices are instructed to use these "best practices" to help streamline the APD processing time frames.

In July 2003, over 50 percent of pending permit applications were incomplete. BLM is revising Onshore Oil and Gas Order No. 1 (IM 2003-151) and the Oil and Gas "Gold Book" (IM 2003-153), two references used by oil and gas operators to comply with standards concerning surface use for oil and gas operations. Clarifying these two references will make it easier for oil and gas applicants to submit a complete application, thus reducing APD delays.

The IM on Comprehensive Strategies (IM 2003-152) outlines some strategies Field Offices can employ to streamline the APD processing time. This IM publicizes to all BLM Field Offices some "best practices" for APD processing being used by other BLM Field Offices.

## PILT—PROPOSED MOVEMENT FROM BLM TO THE DEPARTMENT LEVEL

*Question.* Madam Secretary, this year's request includes a proposal to move funding for PILT out of the BLM account and shift the program to the Department level.

Setting aside the request's decrease of \$18.5 million from the fiscal year 2003 enacted level, which concerns me greatly, could you explain the Department's proposal to shift this program to the Department level?

*Answer.* PILT payments are principally based on public lands in local jurisdictions that are Federally-administered by U.S. Fish and Wildlife Service, National Park Service, U.S. Forest Service, and other Federal agencies, in addition to the BLM. Funding for PILT is not singularly attributed to one Department agency. The program is being consolidated at the Department level in recognition of the fact that PILT payments are made not only for BLM lands, but also for the lands of these other Federal agencies, and to ensure that appropriate emphasis can be directed to this program.

*Question.* The Interior Appropriations Act has historically capped the administrative costs for the PILT program at \$400,000? Will the Department be able to live within this cap, or hopefully reduce the administrative costs further?

*Answer.* Yes, the Department will be able to continue administration of the PILT program at the \$400,000 level.

BUREAU OF LAND MANAGEMENT—ENERGY AND MINERALS

*Question.* Madam Secretary, I notice your budget for the BLM essentially asks for level funding for Energy and Minerals production, rather than including a substantial increase, as has been the case in the past two requests.

I whole-heartedly applaud your efforts to increase domestic production, but I am curious if the lack of increase in this year's request for Energy and Minerals was based upon budget limitations or the reality that we are doing everything we can to address the current permitting backlogs and related activity.

*Answer.* Funding increases in the last two years have brought BLM's Energy and Minerals program up to \$106 million in 2003, an increase of 34 percent over the 2001 level of \$79 million. These increases—which have been generally in line with the Administration's requests and reflect the high priority the Administration places on energy development—have been built into the “base” for the fiscal year 2004 request. The fiscal year 2004 budget request for the BLM's Energy and Minerals Management program is adequate to reduce the current APD backlog, based on the estimated number of APDs that the Bureau expects to receive during 2003 and 2004. The BLM has had indications that some operators are planning to submit large numbers of APDs in the future, especially in the Powder River Basin and in other areas with potential coalbed natural gas development. However, based on past experience, the BLM cannot count on this increase in activity. It is not uncommon for an operator to tell the Bureau that plans for the following year include drilling large numbers of wells, only to have the operator change his/her priorities the following year, and not drill any of the wells that were planned. The BLM has planned for a 27 percent increase in activity over 2003. An increase greater than 27 percent would likely result in a growing APD backlog, while an increase of less than 27 percent would allow BLM to further reduce the existing backlog beyond what has been anticipated in 2004. Also, to the extent that some of BLM's efforts to improve efficiencies are successful, BLM could see additional reductions in the APD backlog.

*Question.* Could you detail some of the initiatives that the BLM will be undertaking in fiscal year 2004 that are designed to increase domestic energy production while also diversifying our energy portfolio?

*Answer.* The National Energy Policy specifically directs BLM to address several key issues that are vital to the current and future status of the Nation's energy program. In response, the BLM has developed a plan that will continue to be implemented in 2004. In Alaska, BLM will conduct a second biennial lease for oil and gas in the northeast sector of the National Petroleum Reserve-Alaska (NPR-A). BLM is also pursuing the expansion of the area offered for lease to include the northwest and southern section of NPR-A. BLM plans to increase support for coalbed natural gas development in areas beyond the Powder River Basin and to continue support for active coal leases to provide these fuels that are so vital for power generation.

In order to respond to the demand for diverse energy sources, the BLM plans to process and approve twice the number of geothermal permits to drill in 2004 that are processed in 2003. Also, the BLM will concentrate on processing geothermal applications for development on U.S. Forest Service public lands in California, Oregon, and Washington, and clear new areas managed by the Bureau for geothermal leasing in Utah, New Mexico, Idaho, and Arizona. BLM's efforts are expected to result in a 15 percent increase in geothermal power plants.

In Idaho, Utah, and Nevada, BLM plans to update land use plans and perform environmental studies needed to respond to applications for wind energy development. BLM staff will also be responding to demand for access across BLM lands for transmission lines and pipelines related to renewable and non-renewable energy development. BLM recognizes that timely issuance of these right-of-ways is important to the economic viability of these projects.

BLM is also incorporating in Resource Management Plans the information contained in a new report titled, “Opportunities for Near-Term Geothermal Development on Public Lands in the Western United States”. This report (released in April 2003) identifies 35 “top pick” sites in six western states for near-term development of geothermal energy for power generation. Of the 35 sites, ten are in Nevada, nine are in California, seven are in Oregon, and three each are located in New Mexico,

Utah, and Washington. The report was prepared for the BLM and the Department of Energy by the National Renewable Energy Laboratory.

*Question.* In my experience, these initiatives are largely supported by State and local governments. In your opinion, is the Department working well with local government entities and are they generally supportive of these efforts?

*Answer.* BLM field offices work closely in the development of land use plans, which provide the framework for managing the exploration and development of energy. In addition, State governments are often cooperating agencies in the preparation of major environmental impact statements (EIS). In the case of the coalbed natural gas development EISs, both Montana and Wyoming State agencies assisted in the preparation or review of these important environmental documents. State agencies with permitting authority, such as Montana's Board of Oil and Gas Conservation (MBOGC) and Montana's Department of Environmental Quality, are closely involved in establishing operating requirements and mitigation measures to minimize or eliminate hazards associated with coalbed natural gas development. BLM and MBOGC review and approve Water Management Plans for each project in order to support the goal of developing coalbed natural gas in an environmentally sound manner.

#### BUREAU OF LAND MANAGEMENT—FIRE FUNDING

*Question.* Your budget request includes a \$36 million increase for fire suppression activities. I support your desire to bolster this account to avoid the inefficient process of routinely borrowing against other Department accounts to offset suppression costs.

Can you explain the projections the Department used to support this increase?

*Answer.* The budget request for suppression operations assumes that 2004 will be an average year for wildland fire activity. The request is based on the most recent 10-year average cost for fire suppression operations, as adjusted for inflation. For the 2004 request, the 10-year period covers the years 1993 through 2002. The actual cost for fire suppression for each year was converted into 2002-comparable dollars, using the approved Gross Domestic Product non-Defense deflators as the basis for the adjustments. The inflation-adjusted costs were added together, and the sum was divided by ten to calculate the annual average of \$195.3 million.

*Question.* We have had numerous discussions within this Subcommittee, and in both the Energy and Natural Resources and Budget Committees, to address the problem of borrowing against other accounts to fight fires. This practice functionally crippled the U.S. Forest Service last year and caused some problems for Interior as well.

Could you explain how the Department was impacted, and what steps have been taken to minimize the disruption to core programs?

*Answer.* The impact of borrowing funds from other accounts to pay for wildland firefighting has not disrupted Interior operating programs. The Secretary of the Interior is authorized to draw on construction and land acquisition accounts with significant unobligated balances. Borrowing from these accounts has enabled Interior to avoid borrowing from operating accounts that could impede or disrupt on-the-ground operational activities such as resource protection, park and refuge operations, and BIA school operations.

The Departments of the Interior and Agriculture are in the process of developing a large fire cost reduction action plan. The plan will respond to Congressional direction included with the 2003 appropriation and will build upon previous reports by the National Academy of Public Administration and the National Association of State Foresters. It will address the roles of agency line officers and incident commanders as well as changes in wildfire situation analyses, financial management, and operational actions. We expect that the recommendations in the draft plan will result in operational savings that will result in savings to the taxpayer and a reduced need to rely on transfers from other accounts for emergency funding.

#### TRUST REFORM REORGANIZATION

*Question.* Last year the Department proposed an organizational restructuring to handle the Department's Indian Trust responsibilities. This proposal met with concern by some in the tribal community and a robust consultation process was the result.

Could you update the subcommittee on your current actions to organize the Department's trust reform responsibilities and give us a roadmap of what you feel are the next logical steps to be pursued by the Department?

*Answer.* The new organizational structure for the BIA and OST provides a single executive sponsor for trust reform; enhance beneficiary services; ensure account-

ability; and emphasize Economic Development, Self-Governance and Self-Determination activities.

Both BIA and OST are working aggressively to implement the reorganization. The Departmental Manual to formalize the reorganization was issued on April 21, 2003. OST and BIA are determining personnel selections for key management positions. OST has initiated recruitment of Trust Officers to be placed in, or in close proximity to, the BIA agencies with the highest level of trust activities and recurring trust income. BIA and OST have established a joint implementation coordination team that meets regularly to discuss issues related to implementing the reorganization as efficiently and effectively as possible.

The reorganization focuses on the BIA and OST fiduciary responsibilities to tribal and individual Indian beneficiaries. The BIA will retain its responsibilities relating to land and natural resource management because of its demonstrated expertise in this area of the trust. OST will retain its financial trust asset management and statutory oversight duties, and expand its role to provide beneficiary representation in all aspects of fiduciary operations and oversight. OST's Trust Officers and Regional Trust Administrators will provide local presence to support beneficiary services and ensure the proper management of fiduciary trust assets.

The reorganization of trust functions in the BIA and OST was developed after detailed analysis of the prior organization and a yearlong consultation process with tribal leaders. This was, perhaps, the most extensive consultation effort ever undertaken by the senior management level at the Department on any issue relating to Indian Country. Over 45 meetings with tribal leaders provided a range of proposals and recommendations. The new organization reflects a synthesis of the views heard during the consultation process. It will meet fiduciary trust responsibilities, be more accountable at every level, and operate with people trained in the principles of fiduciary trust management.

The Department recently issued a Comprehensive Trust Management Plan to address trust reform. In addition to work outlined in the Plan to move forward on trust improvement initiatives, the Department is also actively engaged in the historical accounting for individual Indian account holders. Completion of a yearlong project to document trust business processes provides the Department with the information necessary to begin a major re-engineering task of these processes. The re-engineering or "To-Be" process as it is known is an integral part of the Comprehensive Trust Management Plan.

*Question.* Do you have any recent indication from the Court that moving forward with the reorganization is timely, or adequate to address the current problems?

*Answer.* We have not received any response from the Court regarding the reorganization.

#### FISH AND WILDLIFE GRANT PROGRAMS

*Question.* The Department has proposed two new grant programs over the last two years called the Landowner Incentive Program and the Private Stewardship Grants Program. There were some difficulties establishing eligibility requirements and criteria for allocating these funds.

What is the status of these two programs now? Are funds getting out the door?

*Answer.* The Secretary announced the approval of State Landowner Incentive Program proposals from 42 States in the amount of \$34.8 million on February 25, 2003. Funds will be made available through grants to these States once they submit their complete package of grant agreement papers and the Service signs them.

Of the 42 States, 39 have programs approved for Tier 1 grants (emphasis on building a program infrastructure), and 22 are approved for Tier 2 grants (on-the-ground conservation work). As of May 28, four Tier 1 LIP grants were signed and are now active in the States of Idaho, Minnesota, Montana, and Nebraska. A Tier 2 grant is active in Minnesota.

The Service has received additional grant documentation from eight other States for Tier 1 grants (Arkansas, Delaware, Maine, New Jersey, South Carolina, Texas, Washington, and Wisconsin), and two States for Tier 2 grants (Nebraska and South Carolina). The Service anticipates these additional 10 programs will be awarded grants in June. Most of the remaining States are nearing the end of their State fiscal years (June 30), and the Service expects most will establish grants for their approved programs later in the summer.

The grant awards for the Private Stewardship Grants Program were announced on May 28, 2003. More than \$9.4 million will be awarded under this innovative program to individuals and groups to undertake conservation projects on private lands for endangered, threatened, and other at-risk species. The Fish and Wildlife Service spent additional time working with States and potential grant applicants to help

them understand the new program and its requirements. Project proposals were originally due to the Service's Regional Offices by December 1, 2002, but after many applicants requested more time, the due date was extended to January 15, 2003, providing the public more than 100 days to develop and submit project proposals. We do not anticipate having such a long application period this year, and anticipate being able to award grants at an earlier date in the spring of 2004.

*Question.* How many projects have been funded thus far?

*Answer.* Of the 42 States approved for Landowner Incentive Program grants to fund their programs, the States of Idaho, Minnesota, Montana, and Nebraska have Tier 1 grants in place; Nebraska and South Carolina have Tier 2 grants. Tier 1 grants are small (up to \$180,000), and emphasize agency infrastructure and capability building. Most on-the-ground conservation projects will be conducted in the 22 States approved for the larger Tier 2 grants. The Service will act to award grants for these approved programs once it receives the State documents. We awarded approximately \$9.4 million to about 113 projects in some 42 states ranging from Alaska to New York.

*Question.* Will the Committee have the track record of accomplishments that we can evaluate how to fund these programs in fiscal year 2004?

*Answer.* While some Landowner Incentive Program projects will be initiated in the States this summer, the Service will not receive the first annual performance reports for these grants until the summer or fall of 2004. These reports will describe accomplishments and are due after the first year of the project period. As a point of interest, there are 28 States and 6 Territories that did not receive any Tier 2 conservation project funding in fiscal year 2003. Many of these are eager to gain initial funding to start projects with private landowners in their jurisdictions.

The Fish and Wildlife Service will be able to provide the Committee with a list of projects selected for funding through the Private Stewardship Grants Program including information on the objectives to be reached through the funding of each project. At a later date, a full analysis of the accomplishments of implementing these projects under the Private Stewardship Grants Program can be provided.

#### QUESTIONS SUBMITTED BY SENATOR TED STEVENS

##### ALASKA CONVEYANCE PROGRAM

*Question.* An issue of concern to myself and Senator Lisa Murkowski is the pace of the Bureau of Land Management's Alaska Conveyance program. As you know, the BLM was tasked with completing work on Native allotments and land selections mandated by both the Alaska Statehood Act of 1959 and the Alaska Native Claims Settlement Act of 1971. That task has not been completed.

This delay has severely impacted the ability of the State of Alaska and our Native groups from developing their resources and furthering the economic development of the State. Language included in the fiscal year 2003 Omnibus Appropriations Bill directs the Bureau to develop a plan to ensure that allotments and conveyances are completed by 2009. I would like to get your commitment that the BLM will abide by its obligations and complete the land conveyance program by 2009.

I know that Senator Murkowski is committed to assisting you and the BLM in this effort through her membership on the Energy and Natural Resources Committee, and I commit to providing the BLM the resources it needs to develop this plan.

*Answer.* BLM is developing the plan required in the 2003 Omnibus Appropriations bill, and is exploring options for improving the conveyance process. A Senate hearing on this issue is scheduled to take place in Anchorage on August 6, 2003.

##### ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

*Question.* Another issue is the National Park Service's proposed regulations concerning the issuance and administration of commercial use authorizations in national parks. As expressed to you in a February 6, 2003 letter from Senator Murkowski, Congressman Don Young, and myself, these proposed regulations fail to comply with the Alaska National Interest Lands Conservation Act of 1980. The 1980 law is the controlling authority on public lands in Alaska and any Park Service regulations must conform with this law. I would like your assurance that the Department and the Park Service are committed to working with the State of Alaska, interested parties, and Alaska Native Groups in developing regulations that are consistent with the 1980 law.

*Answer.* The draft regulations were published for comment in the Federal Register (Volume 67, Number 229) on November 27, 2002 as 36 CFR Part 52. Though

the draft regulations do not reference the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), it has always been our understanding that they must conform to ANILCA as they are applied in Alaska. The draft regulations implement Section 418 of the National Park Service Concessions Management Improvement Act of 1998 (16 USC 5901 et seq.). Section 415 (c) of the same law states:

“ANILCA.—Nothing in this title amends, supersedes, or otherwise affects any provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) relating to revenue-producing visitor services.”

Comments were received from organized groups, their members, individual operators, and from within the NPS. The National Park Service intends to establish a multi-disciplinary work group under the umbrella of the Secretary's Concession Management Advisory Board (Board), covered under the Federal Advisory Committee Act, to review the comments and develop a second draft rule. The work group will consist of interagency personnel, representatives of private sector interested parties including affected commercial operators in Alaska, and designated officials of the Board. This approach will allow for consideration of the business need for a predictable, stable platform while ensuring consistency with the preservation and conservation of park resources. Recommendations of the work group will roll-up to the full Advisory Board in a public meeting and this consultation will occur prior to drafting the next published rule.

#### DENALI NATIONAL PARK

*Question.* Additionally, Denali National Park recently issued its draft backcountry management plan. I am concerned that some of the alternatives, if implemented, would restrict public access to our parks. Access to public lands is an issue I have struggled to protect first as a Solicitor in your Department, in the Alaska State House, and in my 34 years in the Senate. I will oppose any plan which imposes unnecessary limits on the public's right to visit their parks.

I understand that Denali's Superintendent and his staff have held public hearings and meetings on this management plan. I encourage these efforts in order to ensure that the final plan balances the protection of our natural resources with the public's right to access for recreational, economic, and social purposes.

*Answer.* Public enjoyment of Denali National Park and Preserve is extremely important. The National Park Service emphasizes this point in the first chapter of the park's Draft Backcountry Management Plan. One of the primary objectives of the new plan is to: “provide for the public's maximum freedom of use and enjoyment of the park's backcountry and wilderness in a manner that is consistent with park purposes and the protection of park resources and values.” Consistent with this objective, the National Park Service does not intend to impose unnecessary limits on the public's right to visit or enjoy their park.

Meeting the Congressional direction to provide for enjoyment while at the same time protecting Denali National Park and Preserve's resources and values, requires the National Park Service to manage access and use. This management is not intended to unnecessarily restrict the public's right of access. Quite the opposite, careful implementation of the alternatives in the draft plan will provide for more visitor access, and will accommodate greater numbers of visitors than are accommodated today under current management strategies. The National Park Service will carefully evaluate, and appropriately incorporate, all of the public comments received on the draft plan to ensure that the final plan balances the protection of our natural resources with the public's right to access for recreational, economic, and social purposes.

The alternatives in the Draft Backcountry Management Plan were developed in collaboration with the public over the past four years. The National Park Service first held a series of public scoping meetings in 1999 in Anchorage, Fairbanks, Talkeetna/Trapper Creek, and McKinley Village to define issues and impact topics to address in the plan. Approximately 150 people attended the meetings and the NPS received 65 written comments. The NPS next sent a preliminary alternatives newsletter to 2,000 addresses on the park mailing list in January 2001, outlining ideas for alternatives. This newsletter was followed up with open house meetings in Anchorage, Fairbanks, Talkeetna/Trapper Creek, Cantwell, and Healy. After receiving comments on the newsletter and in the meetings, the NPS continued to meet frequently and solicit feedback from interest groups representing such diverse park constituencies as aviation, snow machine users, mountaineering guides, conservation organizations, and the State of Alaska. Information from these ongoing contacts shaped the alternatives in the draft plan printed in February 2003.

After publishing the draft plan, the National Park Service held six informational workshops in Fairbanks, Anchorage, Wasilla, Talkeetna/Trapper Creek, Cantwell, and Healy during March 2003 to help the public understand the draft plan and its implications. These workshops were followed in April by public hearings in each of those communities and in Lake Minchumina. In addition, all individuals who had previously expressed interest were personally notified by mail and telephone of the draft plan's release.

Opportunities for public comment were available through May 30, 2003 by mail, e-mail, and directly through the park web site as well as at the public hearings. Park staff will continue contacts with interested groups and individuals as they produce the final plan.

#### SPRUCE BARK BEETLES

*Question.* I am pleased with the proactive stance the administration has taken in the area of wildfire prevention and suppression through the Healthy Forests Initiative. In recent years, we have witnessed catastrophic fires, which burned over 7.1 million acres, affecting several regions in the United States, including Alaska.

In Alaska, we have a particular problem with spruce bark beetles, which have decimated spruce forests in the Kenai Peninsula area along the Kachemak Bay Watershed and the Copper River Basin near Wrangell-St. Elias National Park and Preserve. The spruce bark beetle problem along with an extremely dry winter season in Alaska raises serious concerns for this coming fire season. I hope that your efforts in fire prevention and suppression will include funding to address Alaska's spruce bark beetle problem.

*Answer.* The State of Alaska is currently undergoing one of the largest spruce bark beetle infestations ever observed. As much as four million acres of forestlands, across all ownerships, have been affected during the last 15 years, of which only 100,000 acres are managed by the BLM. Only 10,000 acres of the infested lands managed by the BLM are accessible and could be harvested with timber sales. Although some of this infected timber has been offered for sale by BLM, the sales have not sold due to poor market conditions. The majority of the timber has deteriorated to the point where it has no value as a commercial product.

The Bureau recognizes that the dry winter and the build-up of fuels resulting from this beetle outbreak creates some formidable challenges for this fire season and for years to come. The Bureau and its partners are prepared to meet this challenge and protect the communities and resources in Alaska. The BLM is currently working with rural communities in Alaska to reduce the threat of wildfire, including providing financial and technical support to the communities and their fire departments, collaboratively identifying conditions and planning actions to reduce those threats, and reducing hazardous fuels within the wildland-urban interface. Where spruce bark beetles have killed timber in these areas, BLM will continue to try to find markets for the material as it is removed during fuel reduction treatments.

#### FEDERALLY-OWNED LAND STATISTICS

*Question.* As you know, we have begun the fiscal year 2004 appropriations process. It has come to my attention that the Committee does not have the most current data for public lands being administered by the Department of the Interior. In order to appropriately allocate scarce resources toward the management of the public lands, I request that the Department provide the Committee with statistics on Federally-owned land by agency in each State and territory by acreage and percentage of State total area. These statistics should also include the total wilderness areas within each State.

*Answer.* The Department will compile this information and transmit it to the Subcommittee under separate cover.

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#### QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

##### CROWNPOINT INSTITUTE OF TECHNOLOGY

*Question.* The Crownpoint Institute of Technology (CIT) is one of only two tribal vocational-technical schools in the country. CIT plays a critical role in training Native American students for employment. The school has a successful program in which an average of 87 percent of its students is placed in jobs upon graduation. A successful post-secondary vocational-technical school such as CIT is a tremendous resource for Native Americans.

Unfortunately, the President's fiscal year 2004 budget request does not include specific funding for CIT.

Given the important and specific roles the two vocational/technical schools play on educating young Native Americans, why has specific funding for CIT been deleted?

Answer. One of the Department's strategic goals is to support development of quality communities for tribes by improving education. An important component of this goal is supporting higher education to provide students with the knowledge and skills they need to become successfully employed. The Bureau currently operates two fully accredited post-secondary schools, Southwestern Indian Polytechnic Institute (SIPI) and Haskell Indian Nations University, and provides funding for 25 Tribally controlled colleges and universities.

CIT is not bureau operated nor is it eligible for funding under the authority of the Tribally Controlled Community College or Universities Assistance Act, as amended. CIT is eligible for funding under the Carl D. Perkins Act, as amended, and receives funding under authority of the Act through a grant program administered by the Department of Education. The Department of Education provided \$6.955 million under this authority to post-secondary schools in fiscal year 2003, of which CIT received \$3.8 million.

*Question.* What considerations would you take into account when determining funding allocations for schools like CIT?

Answer. The Bureau takes into consideration education funding priorities for the existing K-12 programs, eligible TCCCs, and Bureau post-secondary schools. While CIT is meeting an important and unique need for those students who attend it, the Bureau takes into consideration authorizing legislation. Currently, there is no statutory authorization for the Bureau to fund schools like CIT, which is neither Bureau operated nor eligible for funding under the authority of the Tribally Controlled Community College or Universities Assistance Act, as amended (Public Law 95-471.). Public Law 95-471 permits each Tribe to apply for operating grants for a single TCCC. CIT is a Navajo school. CIT is ineligible for TCCC funding because another Navajo school, Dine College, currently receives funding under authority of Public Law 95-471.

CIT is eligible for funding under the Carl D. Perkins Act, as amended, and receives funding under authority of the Act through a grant program administered by the Department of Education. The Department of Education provided \$6.955 million under this authority to post-secondary schools in fiscal year 2003, of which CIT received \$3.8 million.

#### INDIAN SCHOOL CONSTRUCTION

*Question.* Secure, modern, and pleasant school facilities are critical to the education of all students. To that end, I am pleased to see that President Bush sustains the current level of commitment to replace deteriorated BIA schools through new construction with his request of \$292.6 million. These funds are critically needed to continue to address the backlog for repairs, renovation, and replacement for all federally owned and operated BIA elementary and secondary schools.

While I am pleased with the overall request, I am concerned that the \$131.4 million proposed for the replacement of schools does not specify the dollar amount going to each project. New Mexico has five schools on the replacement list for fiscal year 2004—Isleta Elementary School; Mescalero Apache Elementary School; Pueblo Pintado Community School; Navajo Prep School, Phase II; and Wingate High School, Phase II.

Specifically, could you address my concerns that the failure to delineate specific funds for the listed schools may lead to unnecessary confusion, delay, and at worst, failure to provide adequate funding for the projects?

Answer. During formulation of the 2004 Budget, the Administration began using the Program Assessment Rating Tool (PART) to identify strengths and weaknesses of programs and to inform budget, management, and policy activities regarding recommendations. The process generated extensive information on program effectiveness and accountability including the need for additional performance measures. One of the principal PART findings for Indian School Construction program was that it had limited flexibility to adjust funds appropriated to a specific project when there are delays or changes due to planning or design which impact the original cost estimate for the project. The fiscal year 2004 President's Budget reflects a policy change to no longer provide cost estimates for individual projects for replacement schools or facilities improvement and repair until the planning documents and design for the projects are developed to the point where adequate information is available to make a reasonably accurate cost estimate. This will greatly improve accountability for program funding.

*Question.* Generally, would you please describe the efforts of the Department of the Interior to replace aging structures that pose a health and safety threat and make learning difficult?

*Answer.* The Bureau has undertaken an intense effort on the President's commitment to reduce the maintenance backlog and has developed a five-year Maintenance and Construction Plan to address aging structures. Each fiscal year plan includes the projects of greatest need in priority order with special focus first on critical health and safety. The Bureau has also developed a Facilities Management Information System (FMIS) to improve the management of deferred maintenance, major facilities improvement and repair, and replacement school construction projects. The system effectively tracks improvements and facility conditions associated with health, safety, disability access, classroom size, computer, and communications technology space. The data in FMIS is used to determine funding for the highest priority items in the maintenance backlog of health and safety deficiencies.

#### SANTA FE INDIAN SCHOOL RECONSTRUCTION FUNDING

*Question.* The President requested, and the Congress approved, \$23.2 million for Santa Fe Indian School in fiscal year 2002, and another \$15.3 million in fiscal year 2003. In addition, the Santa Fe Indian School requires \$9.2 million to complete its replacement project. There was to be a phase 3 to the project that included a gym and health facility, an administrative building, and site modifications. The Santa Fe Indian School was notified that phase 3 would not be funded and that no funding would be in the fiscal year 2004 budget as anticipated.

Considering the stated goals of the President's Indian Education Initiative and No Child Left Behind programs, could you explain why the budget request did not include funding to complete the Santa Fe Indian School replacement project as planned?

*Answer.* Schools compete for ranking on the BIA priority list for replacement school construction. Higher rankings are given to schools with critical health and safety needs and for which current facility program space is insufficient for current approved education program offerings.

When evaluating the Santa Fe Indian School Phase 3 construction project proposal, it was determined that Santa Fe Indian School is located within walking distance of a U.S. Indian Public Health Service hospital, an administrative building exists on site, the status of the current gym does not warrant complete replacement, and the needed site work was for sidewalk, curb, and gutter improvements. Based on this assessment, other schools more effectively competed for school replacement construction funds.

#### SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE (SIPI)

*Question.* The Southwestern Indian Polytechnic Institute (SIPI) in Albuquerque, New Mexico is a national vocational-technical school that enrolls approximately 750 students representing 100 Indian tribes from across the nation. SIPI provides Indian students with post-secondary educational opportunities and technical job skills.

The Administration's fiscal year 2004 budget request of \$5.593 million for the post-secondary schools of SIPI and the Haskell Indian Nations University in Kansas does not reflect the funding needed to implement the new funding formula that would bring parity in funding to the two institutions. SIPI and Haskell collaborated on the new formula, which was enacted in the Omnibus Appropriations bill for fiscal year 2000. The formula language was again included in the 2001 Appropriations Act to direct the allocation of increased operating funds for the unmet needs identified for both SIPI and Haskell.

The BIA has now adopted the SIPI/Haskell funding formula as its model for all post-secondary school funding proposals, yet it has never been implemented. SIPI would require a total of \$10.641 million in fiscal year 2004 to implement the new funding formula. There are concerns that without this funding the SIPI will be unable to fill key faculty positions, update its library, maintain the college's information infrastructure system, meet new educational demands, and strengthen student support services.

Why has the BIA-adopted funding formula not been fully funded?

*Answer.* To meet the needs of each of the post-secondary institutions, BIA has allocated funds proportional to their enrollment. The formula that was developed by SIPI and Haskell was to be applied to any increases in funding levels.

Unfortunately, the Department of the Interior is faced with making difficult choices in setting priorities for funding for the post-secondary institutions. Funding has been relatively flat for the past several years. One of the Department's strategic goals is to support development of quality communities for tribes by improving edu-

cation. In the 2004 budget, funding increases were targeted to the primary and secondary education levels—areas of higher priority to the Tribes on a nationwide basis.

#### QUESTIONS SUBMITTED BY SENATOR ROBERT F. BENNETT

##### OIL AND GAS PERMITTING ON FEDERAL LANDS

*Question.* A recent report by the Independent Petroleum Association of Mountain States shows that companies looking for oil and gas on Federal leases contend with increasing uncertainties and, in many cases, extreme delays in trying to acquire the necessary permits to conduct activities. Using BLM's own data, the average APD now takes on average 137 days to be approved and in some cases have taken over 365 days to approve.

If the statute states that a typical APD should be approved within 30 days, and the average approval time is 107 days beyond that, please identify the primary obstacles that exist in approving an APD in a timely manner.

*Answer.* There is no statutory requirement that BLM approve an APD within 30 days. APD processing times are prescribed in BLM's own regulations (43CFR 3162 and Onshore Oil and Gas Order#1 issued under 43CFR 3164). The BLM has promulgated regulations that state:

"III D. Processing *Time Frames*. The following table summarizes the major time frames involved in processing most APD's:

##### APPLICATION FOR PERMIT TO DRILL OPTION

| Action item                                           | Days                                                                                                                                                                              |
|-------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Onsite inspection .....                               | Within 15 days after receipt of the APD.                                                                                                                                          |
| Requirements to be imposed when APD is approved ..... | Developed onsite, or within 5 working days thereafter.                                                                                                                            |
| Complete processing of APD .....                      | Within 30 days of the APD's receipt, provided that it is technically and administratively complete at the end of the 30-day period (includes the above 15-day and 5-day periods). |

##### NOTICE OF STAKING OPTION

| Action items                            | Days                                                                                                                                |
|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| Onsite inspection .....                 | Within 15 days after receipt of the NOS.                                                                                            |
| Requirements for inclusion in APD ..... | Furnished onsite or within 5 working days thereafter.                                                                               |
| Complete processing of APD .....        | Within 10 days of the APD's receipt, provided that it is technically and administratively complete at the end of the 10-day period. |

The above time frames, together, comprise the total period during which the BLM anticipates it will be able to process approximately 90 percent of all APD's. However, the 30 days may not run consecutively . . . ."

BLM has self imposed a 30 day time frame for the processing of most APDs. As stated in BLM's Onshore Oil and Gas Order#1, these 30 days may not be consecutive. If an incomplete APD is received, the Bureau must wait to complete the processing of the permit until the operator submits all required information. The BLM does not include the days between the initial receipt of the application and the day when all required information is submitted in the 30 day processing time frame, according to Onshore Oil and Gas Order#1. Since fiscal year 2000, the Bureau has approved 38 percent of the APDs within the 30 day time frame. Although the BLM is not currently meeting its objective of 90 percent, it continues to explore alternatives for increasing this percentage.

The BLM is revising Onshore Oil and Gas Order#1 to clarify the requirements of a complete application. This clarification should reduce the number of incomplete APDs submitted and decrease overall processing times.

Other factors that may extend the processing times beyond the 30 days include the need to: (1) complete any supplemental NEPA analysis, (2) consult with other surface managing agencies (primarily Forest Service), (3) obtain any necessary cultural clearances, and (4) maintain staffing support for ADP processing.

Applications for oil and gas development that are proposed over large acreages may require the development of an Environmental Impact Statement to fulfill National Environmental Policy Act requirements. For example, the Bureau spent two

years completing the EIS that examines the impacts of coalbed natural gas development in the Powder River Basin. Some BLM Field Offices had not been accepting any new APDs for coalbed natural gas, due to the existing large backlog of APDs. Now that the Powder River Basin EIS is completed, Field Offices will be able to begin processing the backlogged APDs and accept new applications. The processing of APDs will be extended any time a major field development EIS is required.

In situations where BLM is required to approve surface disturbance for another surface-management agency, such as the Forest Service, additional time may be needed to allow BLM to coordinate with the other agency. BLM is working with other surface-management agencies to improve coordination and consistency and reduce the time it takes to complete the APD process on non-BLM lands.

Cultural clearances can also extend time frame for APD processing. If a cultural clearance is required, and a cultural clearance report has not been completed prior to submission of the APD, delays can be expected. It typically takes a minimum of 30 days from submission of a cultural clearance report to the State Historic Preservation Officer to get concurrence that historic and cultural resources are being protected. Onshore Oil and Gas Order#1 encourages operators to check with the BLM at least 15 days before submitting an APD or NOS to determine if a cultural clearance will be required.

The Federal Onshore Oil and Gas Leasing Reform Act of 1987 requires BLM to post all APDs for at least 30 days prior to approval. The process could be extended as a result of this requirement.

Due to unanticipated changes in demand in the last few years, staffing has not kept pace with workload in some BLM Field Offices. Additional funding provided in 2002 and 2003 budgets and continued in the President's Budget for fiscal year 2004 funds increased staffing.

*Question.* What steps can be taken administratively to improve this process? What realistic legislative remedies might exist that would provide additional resources to improving the permitting process?

Answer. The BLM is taking several steps to improve the APD processing time frames. On April 14, 2003, the BLM Washington Office issued five Instruction Memorandums (IMs) on APD process improvements. These IMs cover Conditions of Approval, Cultural Resources, revision of Onshore Oil and Gas Order No.1, Comprehensive Strategies, and revision of the Oil and Gas "Gold Book".

The IM on Conditions of Approval (IM 2003-146) directed BLM field offices to supply the Washington Office with copies of conditions of approval currently being used. The Washington Office is developing standard conditions of approval and guidance on how to develop reasonable and enforceable conditions of approval.

The IM on Cultural Resources (IM 2003-147) identifies some "best practices" being used in some BLM field offices concerning cultural resources. All field offices are instructed to use these "best practices" to help streamline the APD processing time frames.

The IM on Revision of Onshore Oil and Gas Order No. 1 (IM 2003-151) and the IM on Revision of the Oil and Gas "Gold Book" (IM 2003-153) initiates the rewriting of two references used by oil and gas operators on standards concerning surface use for oil and gas operations. These revisions will provide oil and gas applicants with improved direction on application requirements.

The IM on Comprehensive Strategies (IM 2003-152) outlines "best practices" strategies that field offices can implement to streamline the APD processing time.

Currently, the BLM does not require any legislative remedies to improve APD processing. As the BLM progresses with APD streamlining efforts, Congress will be notified if new legislation is determined to be necessary.

*Question.* Finally, please provide the Committee with a recommended funding level that would be expected in order to bring the fiscal resources in line with the demands in the field.

Answer. The 2004 President's Budget request includes an increase of \$350,000 to bring the fiscal resources in line with current APD demands and \$2.5 million for inspections, enforcement, and monitoring associated with this level of energy development.

#### FEDERAL PERMIT STREAMLINING PILOT PROJECT

*Question.* A pilot project has been suggested as a means of helping to streamline the Federal permit process for energy related projects. While it does not specifically address APD backlogs, it is my understanding that a pilot project has been included in the Senate Energy Committee's proposed energy bill.

Please comment on the proposed pilot program to streamline federal permit processing currently under consideration before Congress.

Answer. The proposed program in Section 122 of the Senate Energy Bill would establish a Federal Permit Streamlining Pilot Project. This proposal has also been known as the “Tiger Team Proposal”. Section 122 calls for Federal agencies to assign on a non-reimbursable basis employees to serve under BLM Field Managers in six offices. These six teams would work on proposed energy projects, planning and environmental analyses. We have several comments on this section.

Governors should be encouraged to support pilot projects in their respective States by signing the Memorandum of Understanding that defines the arrangement in the pilot States.

Currently, the Energy Bill proposes that six offices participate in the Federal Permit Streamlining Pilot Project. The Bureau recommends that the pilot project be implemented in only one office, Buffalo, Wyoming. This team would work on reducing the backlog in the Powder River Basin. Once the team has completed that task, it would then work in other offices to reduce the APD backlog.

Interagency teams should include personnel from the Bureau of Indian Affairs, U.S. Fish and Wildlife Service, or other agencies within the Department of Interior, and the USDA Forest Service, that the BLM is required to contact as part of the NEPA process for oil and gas operations.

*Question.* What impact, if any, might this pilot program have upon addressing the issue of the APD backlog?

Answer. Initially this pilot program will have little effect on handling the existing APD backlog, because most of the backlog of permit processing was caused by issues that are currently being addressed (e.g. Powder River Basin EIS), or are due to the submission of incomplete applications by operators. In the future, the pilot program could resolve or prevent backlogs from occurring.

*Question.* Please comment on the feasibility of developing a similar pilot program specifically for Federal oil and gas permitting within BLM to address APD permit backlogs.

Answer. The BLM has been looking into the idea of a pilot program where a team of specialists within the BLM would be available to Field Offices to assist with processing oil and gas operations backlogs related to Federal permitting. The team could be centrally located, or could be dispersed in several field offices, but when a Field Office requires assistance, the team would be temporarily relocated to that office. It is believed that this approach would enable the BLM to accelerate the processing time of APDs and other related oil and gas applications.

*Question.* Would such a program be effective in reducing the backlog, and providing greater predictability in the permitting process? Is it feasible that such a program might be put together in a timely manner and begin to take effect within weeks of being funded by Congress?

Answer. Yes, it is believed that such an approach could reduce or eliminate the present backlog of APDs within two years, though the effects of new demand during that two-year period cannot be estimated.

*Question.* Has BLM taken steps to develop a “best practices” program for BLM Field Offices to share information, processes, and expertise in the permitting process? If so, what is the status of the program?

Answer. BLM has been using “best practices” of Field Offices to improve BLM management of the public lands nationwide. In the past, the BLM did not effectively highlight “best practices” to other Field Offices. The BLM is working to improve the dissemination of information concerning “best practices”.

#### MOJAVE DESERT TORTOISE

*Question.* The recent GAO report regarding the efforts to recover the Mojave desert tortoise stated that at least \$100 million has been spent since its first listing. However, the GAO was unable to identify any Fish and Wildlife Service documentation regarding its population trends or whether any of that money has been effective in recovering the species.

What is the Department’s response to the report and what is being done to provide some direction to this extraordinary amount that is being spent on the species’ recovery?

Answer. The Department concurs with the recommendations in GAO’s final report, Research Strategy and Long-term Monitoring Needed for the Mojave Desert Tortoise Recovery Program. Expenditures for the desert tortoise include those for habitat acquisition, research, surveys, plan development, habitat enhancement, and agency staff time. Habitat acquisition, the largest expenditure category, has contributed significantly to the protection of biologically important areas necessary to achieve recovery objectives. Although recovery actions have been implemented, tortoise habitat and populations may not respond in a measurable way for several to many years

afterward. We acknowledge that information on the status of tortoise populations and habitats affected by land management actions is limited; however, collection of population trend data is in progress under the direction and oversight of the Service. We have been working with many partners and stakeholders to establish a collaborative process for implementing recovery actions through a science-based adaptive management approach that all interested parties can embrace. The Desert Management Oversight Group provides a structure for the implementation of recovery and research priorities, and the Service has completed a more effective expenditures reporting system for the next fiscal year.

*Question.* Many restrictions have arisen as a result of the desert tortoise, including grazing reductions and development restrictions. This is a burden that falls heavily upon the local communities.

*Answer.* The Service and other federal agencies have employed several tools to implement the Endangered Species Act while accommodating existing land use practices as much as possible. Regional habitat conservation plans have been implemented in Nevada and Utah to allow development and facilitate recovery of the species with active community involvement. Federal agencies have purchased cattle grazing allotments from willing sellers and worked with local groups to reduce the impacts of activities on lands with tortoise habitat. We are assessing further options to conserve the desert tortoise while minimizing economic impacts. In January 2003, the Service appointed the Recovery Plan Assessment Committee and initiated reassessment of the 1994 Recovery Plan. During the reassessment process, we will evaluate new information on the status and conservation needs of the tortoise, and ensure that research is applied towards management needs as recommended by the GAO.

*Question.* What is being done on the federal end by the Service to set goals and track the population trends and recovery of the species so that at some point in the future the species might recover and be delisted?

*Answer.* The Service recently met with stakeholder groups and federal, state, and local partners to discuss development of a recovery strategy and direction for the revised desert tortoise recovery plan. Workshops are being held to address issues such as disease, predation, and population monitoring. The Recovery Plan Assessment Committee will evaluate the delisting criteria and consider the appropriateness of designating the existing recovery units as distinct population segments. If designated as such, any given distinct population segments may be delisted independently by achieving its stated recovery objectives. Development of a statistically valid monitoring program for a wide-ranging species that occurs underground most of the year has proved to be challenging. However, we are pursuing implementation of a line distance sampling technique to obtain statistically valid population data and track population trends across the range of the species.

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#### QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN

*Question.* The Administration's fiscal year 2004 budget request for the Payment-in-Lieu-of-Taxes program (PILT) is \$200 million. This amount is \$18.5 million below the fiscal year 2003 enacted level, a cut of 8.5 percent. Why has the administration sought to cut this program? What was the Department's request for the PILT program to the Office of Management and Budget? How much will North Dakota receive under the fiscal year 2003 enacted level of \$218.5 million? How much would North Dakota receive under the President's budget request of \$200 million?

*Answer.* Although the fiscal year 2004 President's Budget request for PILT of \$200 million is \$18.5 million below the fiscal year 2003 enacted level, it is \$35 million more than the fiscal year 2003 request of \$165 million. The Department's request to OMB is part of the Administration's pre-decisional budget process and is therefore not subject to release. Under the fiscal year 2003 enacted level of \$218.5 million, North Dakota will receive an estimated \$1 million in PILT payments. Under the President's budget request of \$200 million, North Dakota would receive an estimated \$800,000.

*Question.* The Department of the Interior has indicated that an additional \$2 million is needed in fiscal year 2003 to pay for court-ordered endangered species listing actions. While the Department has provided the Committee with documentation of the shortfall in listing funding, no formal request has been made to bridge this gap. Does the Department have a solution to this problem?

*Answer.* The White House formally requested that the Congress adopt a technical amendment to raise the cap for listing from \$9 million to \$11 million and the sub-cap for critical habitat from \$6 million to \$8 million. If this is approved, the Department intends to ask the Committee's approval for a reprogramming of \$2 million

in funds from other endangered species program elements to listing. This will fund our fiscal year 2003 listing shortfall. In addition, the President's budget contains an increase in the listing budget of about \$3.3 million—which includes an increase of \$3.8 million for critical habitat for already listed species and a decrease for other listing activities of \$600,000.

#### SUBCOMMITTEE RECESS

Senator BURNS. Thank you all very much. The subcommittee will stand in recess to reconvene at 9:30 a.m., Thursday, May 22, in room SD-124. At that time we will hear testimony from the Honorable Spencer Abraham, Secretary, Department of Energy.

[Whereupon, at 11:09 a.m., Thursday, April 10, the subcommittee was recessed, to reconvene at 9:30 a.m., Thursday, May 22.]